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General Assembly

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Permanent Assembly for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[09 January 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11059
1411059

Please recycle

Torture in places of confinement

The Permanent Assembly for Human rights (APDH) in association with the National Prisoner Ombudsman (PPN) from Argentine, a national independent institution dedicated since 1993 to the promotion and protection of human rights of people in prison, would like to bring your attention to the situation of torture in detention centers.

The National Prisoner Ombudsman´s analysis is that torture in Federal Penitentiary Service is not an isolated event but rather a generalized practice. This diagnosis is based on a large number of investigations carried out by the institution. A research on 10% of the total detainee population at federal prisons, showed that 64% had been victims of torture and ill treatment.[1]

The National Prisoner Ombudsman has confirmed, trough the implementation of the *Investigation and documentation of torture or ill-treatment procedure* created on the principles and criteria of the Istanbul Protocol, 429 cases of torture and ill treatment in federal prisons in 2012, in addition to a large number of unreported cases due to fear of reprisal. While these figure indicates a 6% growth in the amount of episodes registered in comparison to the previous year; the 1358 documented cases over the 5 years of implementation of the protocol reveals that prison violence is an inherent characteristic of penitentiaries in today´s world.

On the other hand, as a result of a specific study carried out in every visited penitentiary unit and the implementation of the *Investigation and documentation of torture or ill-treatment procedure*, the National prisoner ombudsman' s National Register on cases of Torture[2] 2012, could identify 11 types of acts of torture and ill treatment committed the past year.[3]

In federal prisons torture becomes a managing mechanism of detained population. National Prisoner Ombudsman´s 2012 report states that... ***on regards of ill treatment it is possible to identify the rationality of its application. The extension of penitentiary ill treatment, its focalization on certain groups, the frequency of its application under particular circumstances and the specific spaces of prison allows an observer to identify the functionality of this violence. Torture and beatings presents a rationality with particular effects that inserts in a governing structure that connect this and other negotiation tools, such us, solitary confinement, hunger, social care abandonment, etc. Multiple strategies are combined according to the group of people intended to manage***[4]. In the same sense, the recently published Report on the Mission to Argentina of the Subcommittee on Prevention of Torture carried out in April, 2012, reveals that ***Many of the people who were interviewed (both young people and adults, including some***

[1] National Prisoner Ombudsman from Argentina, *Cuerpos Castigados. Malos tratos y torturas en cárceles federales*, Buenos Aires, Editores del Puerto 2008

[2] Established in 2010 following an agreement between the National Prisoner Ombudsman, the Committee against Torture of the Provincial Commission for Memory and the Group on criminal system and human rights studies of the Gino Germani Investigation Institute of the University of Buenos Aires.

[3] Physical aggressions, solitary confinement, threats, constant and grave transfers, poor material conditions of detention, lack or poor nutrition, lack or poor health care, robbery of personal belongings, family and social bond impediments, humiliating inspections.

[4] Annual Report 2012, National Prisoner Ombudsman from Argentina, Buenos Aires. Avaiable at www.ppn.gov.ar.

pregnant women) said that beatings and police brutality were "usual" and were often used to control detainees or force them to confess or as a reprisal for having complained about their conditions of detention.[5]

The practice of torture and other ill treatments is based, among other factors, on the serious failures of the penitentiary service system that inherited a violent institutional culture from the military dictatorship that rules the country in the 70's.Thus, the militarization of the penitentiary service reproduce on people deprived of their liberty the same treatment in violation of fundamental rights. The aforementioned combined with the high level of corruption prevalent in prisons and others failures of the System, contribute to the persistence of torture.

Another alarming fact of 2012 is the increase of violent deaths under Federal Penitentiary Service. Nation Prisoner Ombudsman´s report state ***it is especially alarming, in addition, the rise in the incidence of violent death on the total number of episodes. After the 47 death registered in 2009, a decrease was observed in 2010, 33 cases, rising to 39 cases the next year. By 2012 there has been documented 55 deaths, with an increase of 41% over the previous year, reaching historic levels that were considered outdated.***[6]

The Subcommittee on Prevention of Torture´s report expressed concern about:

- ✓ The lack of implementation of the National Prevention Mechanism
- ✓ The amendment made by the National Chamber of Senators dealing with the make-up of the National Committee for the Prevention of Torture allowing the interference of the executive branch.
- ✓ The creation of preventive provincial mechanism that do not enjoy the independence required under the terms of the Optional Protocol.

In its report the Subcommittee urges the state to…***ensure that the national preventive mechanism enjoys operational autonomy and independence and that it should refrain from appointing members to that mechanism who hold positions which could raise questions of conflicts of interest.***[7]

The signatories to this statement joint to the concerns expressed by the Group of Independent Experts, as we have done since the beginning of the debate on the mechanism bill back in 2007.

In the light of the above, the PPN consider it necessary that federal penitentiary service's authorities and political authorities should place the issue of torture in detention centers on the agenda; and therefore, design a plan for the eradication of this practice which should involved strategies of different scopes: appropriate selection and training of personnel, rigid controls and administrative and criminal sanctions, transfer of responsibilities and interventions to civilian areas- medical services, education, labour, social services- internal and external monitoring bodies, protection of claimants and victims of torture, among others.[8]

On December 2012, following a full debate, the national congress passed the law that creates the National Preventive Mechanism against Torture according to the principles of the Facultative Protocol, and establishing the National Prisoner Ombudsman as a permanent member of the monitoring body. After a year from its creation, the National

[5] Report on the Mission to Argentina of the Subcommittee on Prevention of Torture, advanced copy, 2012.
[6] National Prisoner Ombudsman, *op cit*, p 23.
[7] Subcommittee on Prevention of Torture, *op cit*, p4.
[8] National Prisoner Ombudsman, *op cit*, p 23.

Preventive Mechanism against Torture has not yet been regulated, thus, argentine state remains in default of its international commitments.

We are also concern about the limited number of provincial mechanism of prevention created. Until today, only 6 provinces (out of 23) have adopted the law, and only 2 monitoring bodies are really functioning experiencing great difficulties in terms of economic resources. The rest have not yet been implemented.

Finally, it is concerning the absence of a reply from the argentine state to the committee against torture as set out in article 19th of the convention. The last periodic report was submitted in 2004. In 2010 additional information was again requested on regards the information provided in the last report, giving the state the opportunity to fulfill its international responsibilities. The deadline set for the submission was august 2012, the state did not sent any reply.

We note there has been no progresses made on regards the committee against torture's remarks on the last report submitted in 2004. Cases of torture are still classified under inappropriate criminal offenses, no judicial investigations are conducted, and no protection is given to victims.

The Permanent Assembly for Human Rights and the National Prisoner Ombudsman hereby call on Argentine authorities to take effective measures to prevent torture and other cruel, inhuman or degrading treatment in detention or custody and to ensure these practices are duly investigated and prosecuted, as well as to promote democratization of the Penitentiary Service.

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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Mouvement contre le racisme et pour l'amitié entre les peuples, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Human rights situation in Tibetan regions under People's Republic of China (PRC)

Torture Rampant – Poor health and death after release

In 1988, PRC ratified the Convention Against Torture (CAT), however, Tibetans continued to be tortured, arrested without proper reason, and sent to detention centres without due process. According to TCHRD's[1] figures, 87 prisoners were tortured and died either in detention or shortly after their release between 1987 and early 2005.

Other NGOs have also documented widespread use of torture, ill treatment and coercion of Tibetans in detention. Some cases point to the use of torture to extract confessions from the detainees. For instance, on 31 January 2013 two Tibetan men, Lobsang Konchok, age 41, a monk at Kirti Monastery, and his nephew Lobsang Tsering, age 31 and former monk, were sentenced to death with two years' reprieve and to 10 years in prison respectively on charges of incitement to homicide in connection with self-immolation protests. The verdict relied on the confessions they gave during their five-month detention, when the use of torture is common.

TCHRD has also reported that during 2013 many Tibetans have been released from jail in extremely poor health conditions and some are death. Among them were:

1. Ngawang Jampel, age 45, from the Tarmoe Monastery: on 17 December 2013, Chinese policemen in Driru (Chinese: Biru) County of Nagchu Prefecture, Tibet Autonomous Region, have beaten him to death less than a month after they had taken him into custody and rendered him disappeared; the police quickly delivered the body of the deceased monk to his family and warned them against speaking about the death.

2. Geshe Sonam Phuntsok, 48-year old, a former political prisoner, had spent five years in prison for his religious activities and for conducting a long life prayer ceremony for the Dalai Lama in October 1999. He passed away on 5 April 2008 in Kardze after a prolong battle with multiple illnesses following a lengthy imprisonment and maltreatment in the prison; he was hospitalized after spending five years in prison. His treatment in prison left his body broken and he died less than three and a half years after his release.

3. Tsultrim Kalsang, age 26, a monk from Nyatso Zilkar Monastery was detained along four other fellow monks by Chinese security forces in 2012. In 2013, he was hospitalized for months due to the injuries suffered during detention, where he was severely beaten and tortured.

4. Two Tibetan monks, Lobsang Ngodup, age 34, and Soepa, age 35, were released on 10 March 2013, after suffering torture in jail. Lobsang Ngodup had to be hospitalized right after his release and Soepa is reported to have lost mental stability as a result of the torture.

5. Jigme Gyatso was released on 3 April 2013 after spending 17 years in prison. During his imprisonment he was subjected to electrocution with electric batons and brutal beatings. Even after his release, he continues to suffer from weak eyesight, heart complications, kidney disorder and difficulty walking.

6. Yonten Sangpo, age 34, was detained in February 2012 and released on 21 April 2013 in extremely poor health due to mistreatment by Chinese police officers during his arrest and detention. He has difficulty in speaking due to a gunshot wound in his jaw and movement restrictions caused by an injury to his spine.

7. Lodroe Gyatso was released on 2 May 2013 in poor health caused by ill-treatment in prison after completing a 21-year jail term in a Chushul prison near Lhasa.

8. Sonam Rinchen, age 37, was detained and disappeared in February 2012 when protesting against Chinese policies in Drango County. He was released on 24 July 2013 in poor health conditions due to abuse endured in police custody.

[1] Tibetan Centre for Human Rights and Democracy

9. Shedrub Lhamo, age 40, nun at Ganden Choeling Nunnery, was released from jail on 24 August 2013 after being tortured while in custody.

In November 2013, Chinese Supreme Court issued an order prohibiting the use of torture to extract confessions, specifying that using "freezing, starving, extreme heat, fire branding or extreme exhaustion" to extract confessions is considered torture and, therefore, illegal.

However, the Chinese officials' mistreatment of Tibetans during interrogation and detention is not uncommon: beatings with rifles and electric batons, the use of torture techniques like the "Tiger Chair" and the "Death Bed" and solitary confinement for months are frequent practices in jail.

Restriction on freedom of Expression - Heavy Crackdown on Tibetan intellectuals

As part of Chinese officials' campaign to silence any criticism over government actions, a major crackdown on Tibetan citizen journalists, writers and artists was launched. Many of them have been harassed, detained and imprisoned after informing on human rights situation in Tibet regions, writing books on self-immolations, denouncing Chinese policies in the TAR region or even singing traditional Tibetan songs. In this regard, TCHRD had documented the Chinese authorities' crackdown on the following Tibetan journalists, writers, intellectuals, artists and activists during 2013:

- in February 2013, new information revealed that the disappeared poet Lobsang Namgyal aka "Sangmig", age 26, was secretly detained and disappeared around mid-May 2012. He is now being held at a detention centre in Chengdu; no formal charges have been pressed against him;

- on 23 February 2013, singer Lolo was sentenced to 6 years in prison for the release of a music album in 2012 that contained songs, including the popular and well-known "Raise the Tibetan Flag, Children of Snowland";

- on 8 March 2013, writer, blogger and activist Tsering Woeser, held under house arrest in Beijing, was prevented from travelling to the US to receive the 2013 International Women of Courage Award, granted by the US State Department. After the announcement of the award, Woeser's movements were further restricted and monitored;

- on 14 May 2013, writer and monk Gartse Jigme, age 36, was sentenced to 5 years in prison in Malho (Chinese: Huangnan) Tibetan Autonomous Prefecture, Qinghai Province, for his book on several issues dealing with Tibet including self-immolations;

- in June 2013, singers Pema Trinley, age 32, and Chakdor, age 32, were secretly sentenced to 2 years in prison in Ngaba (Ch: Aba) County in Ngaba Tibetan and Qiang Autonomous Prefecture, Sichuan Province. Both singers had recorded and distributed a music DVD containing songs on the current situation of Tibet as well as songs of praise of the Dalai Lama, Panchen Lama and some political exiled leaders;

- on 14 July 2013, singer KelsangYarphel, age 37, was detained in Lhasa on suspected charge of "singing a politically subversive song" (Bhodpa Tso "Fellow Tibetans") at a concert in November 2012[2];

- around August 2013, singer Shawo Tashi was secretly sentenced to 5 years in prison on the charges of "distributing photographs of self-immolation protesters; helping to write last notes left by self-immolation protesters; participating in protests against Chinese government, and singing patriotic Tibetan songs";

- in August 2013, writer Gangkye Drupa Kyab was sentenced to 5½ years in prison for allegedly engaging in political activities in Nyagchu (Chinese: Yajiang) County in Kardze (Chinese: Ganzi) Tibetan Autonomous Prefecture, Sichuan Province, he was arbitrarily detained in 2012 and has been held incommunicado since then.

[2] Chinese authorities subsequently banned and confiscated DVDs of the concert

- on 28 October 2013, nomad and writer Topden aka Dro Ghang Gah was arrested in Shagchu (Chinese: Xiaqu) town in Diru (Chinese: Biru) County, Nagchu (Chinese: Naqu) Prefecture along with other eight Tibetans; on 30 November 2013, he was sentenced to five years in prison for "keeping contacts with Dalai's clique and for engaging in activities to split the nation";

- in November 2013, singers Trinley Tsekar, age 22, and Gonpo Tenzin, age 25, were arbitrarily arrested in two separate incidents in Diru County: the formal charges against them were unknown, but sources pointed to their songs containing lyrics calling for the defence and promotion of Tibetan identity and cultural heritage; on 19 December 2013, Trinley Tsekar and two other Tibetans, Choekyap and Tselha, were sentenced by the County People's Court in Diru to varying jail, on charges related to "separatist activities"; at the time of writing there is no information regarding Gonpo Tenzin's status.

Recommendations

MRAP urges the People's Republic of China:

- to immediately ratify the International Covenant on Civil and Political Rights (ICCPR), which the PRC signed in 1998;

- to sign and ratify the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- to end torture and ill-treatment of suspects, make police officers and officials accountable for human rights violations, and guarantee proper conditions for prisoners, especially access to adequate food and health care;

- to schedule an early date of visit by the Special Rapporteur on Religious freedom who has invitation since 2004 and accepts other twelve SP mandate holders who requested for a visit;

- to restore and protect the right of all writers, journalists, and bloggers in China to exercise their right to freedom of expression as guaranteed by the Chinese constitution and Article 19 of the ICCPR;

- to immediately release all people arbitrarily detained including protesters, monks and nuns, political dissidents, journalists, writers, artists, and activists and inform their families of their whereabouts and allow visits.

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Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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Please recycle

The Human Rights Council must help Sri Lankan victims of human rights violations: their government is protecting the perpetrators

Thousands of victims of human rights violations and their families have been denied justice, truth and reparation, as the Sri Lankan government concentrates its efforts and resources on blocking a credible international investigation of alleged war crimes and crimes against humanity committed during the armed conflict between government forces and the Liberation Tigers of Tamil Eelam that ended in 2009.

Long-standing and credible allegations of violations of international law by the Sri Lankan government forces and the LTTE during the armed conflict, some amounting to war crimes or crimes against humanity, remain unanswered. There is substantial evidence that Sri Lankan government forces committed enforced disappearances, extrajudicial executions, intentionally shelled civilians and protected areas such as hospitals, and blocked food and medicine from reaching civilians trapped by the fighting. The LTTE is accused of using civilians as human shields, killing individuals who tried to escape and recruiting child soldiers. The Sri Lankan government continues to deny credible allegations of crimes under international law committed by its forces and to resist calls for independent international investigation, including of senior officers allegedly responsible, several of whom remain in positions of authority.

Human Rights Council (HRC) Resolution 19/2 of 2012 called on Sri Lanka to ensure accountability for alleged violations of international law. Resolution 22/1 of 2013 expressed concern over reports of a wide range of continuing violations of human rights, reiterated the demand for accountability and noted the call of the UN High Commissioner for Human Rights (HCHR) for an "independent and credible international investigation into alleged violations of international human rights law and international humanitarian law" in Sri Lanka. It also called on the Government of Sri Lanka "to take all necessary additional steps to fulfill its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans."

In her update to the HRC on 24 September 2013 on implementation of Resolution 22/1, the High Commissioner encouraged the Government to use the time before March 2014 "to show a credible national process with tangible results, including the successful prosecution of individual perpetrators, in the absence of which … the international community will have a duty to establish its own inquiry mechanisms." (A/HRC/24/CRP.3/Rev.1, para 18). Amnesty International believes it is high time to establish such an international mechanism.

The Government of Sri Lanka has not initiated a credible investigative process and has not made demonstrable progress towards prosecution of alleged perpetrators. It continues to rely on forces allegedly responsible for serious violations to police themselves. In 2013, an army court of inquiry exonerated the Sri Lankan military for civilian casualties in the last stage of military operations, concluding that any casualties that occurred were the fault of the LTTE. The report remains unpublished. A second army inquiry into alleged extrajudicial executions of individuals who surrendered to or were captured by the Sri Lankan military in the final days of conflict was initiated in March 2013, but by the end of 2013 investigators had not even interviewed witnesses other than army field commanders.[1]

In 2010 many family members provided testimony to the Lessons Learned and Reconciliation Commission (LLRC)."[2] that their relatives disappeared after being taken into the custody of government forces or the LTTE. Ahead of the visit to Sri Lanka by the HCHR in August 2013, President Rajapaksa ordered an ad hoc commission of inquiry to investigate

[1] National Plan of Action for the Implementation of LLRC Recommendations -Responsibilities by Thematic Area, Nov, 2013, page 2.

[2] "Joint Civil Society Submission to Ms Navi Pillay", 1 September 2013, http://www.eyesrilanka.com/2013/09/01/joint-civil-society-submission-to-ms-navi-pillay/, accessed 31 January 2014

abduction and disappearance cases from the northern and eastern provinces between 10 June 1990 and 19 May 2009. It had reportedly received over 11,000 complaints by the end of 2013. While the process will again raise the hopes of people desperate for information about the whereabouts of their missing relatives, it is unlikely to provide them with satisfactory answers, let alone justice. The Commission is the 10th to examine alleged enforced disappearances since the early 1990s.[3] Like its predecessors, it lacks financial and political independence and does not guarantee effective witness protection. Very few perpetrators of human rights violations identified by witnesses before previous commissions were ever prosecuted and most of the recommendations to prevent future violations have been ignored.[4] Meanwhile, those campaigning for effective mechanisms to establish the truth about disappearances are subjected to attacks, such as the assaults on families of the disappeared (carried out in sight of the police) in Trincomalee on 10 December 2013. [5]

A domestic civil society submission to the HCHR presented during her visit in August highlighted concern for "the selective adoption and laggardly implementation of the constructive recommendations contained in the final report of the Government of Sri Lanka appointed [LLRC]."[6] The absence of credible government action to end Sri Lanka's longstanding climate of impunity has allowed serious violations of human rights to continue. Credible allegations of extrajudicial executions in police custody are again on the rise, and torture is reported frequently.

Activists and journalists -- especially those advocating accountability have been threatened, arrested and assaulted; religious minorities and their places of worship continue to be the target of attacks by nationalist Buddhist protestors with alleged government links. Police have failed to intervene to prevent violence; press reports quoting religious heads of these places of worship indicate that local officials have ordered several affected mosques and churches to close.

A persistent pattern of arrests and harassment of those challenging official denials of human rights violations has occurred around successive HRC sessions as Sri Lankan authorities have attempted to prevent information about human rights violations from reaching the UN and have tried to discredit activists who speak out about the violations. Harassment, threats and arrest of activists were also reported around the Commonwealth Heads of Government Meeting in Colombo in November 2013. None of the incidents known to Amnesty International have been effectively investigated, and no prosecutions have been initiated.

Eight years on, no one has been held accountable for the January 2006 extrajudicial executions of five students in Trincomalee by Sri Lankan security personnel. On 14 October 2013, the Trincomalee High Court granted bail to 12 Special Task Force personnel who had been arrested in connection with the killings shortly before the HCHR visited Sri Lanka. These suspects were also arrested in 2006 but then released, supposedly for lack of evidence. Their commanding officer, named by several witnesses and in numerous reports as having been present during or ordering the attack, has never been arrested. The case has been the subject to a protracted preliminary ("non-summary") inquiry in the Trincomalee Magistrates' Court, which started on 9 September 2013.

No one has been arrested in connection with the killing of 17 aid workers with Action Contre La Faim in August 2006 despite credible reports identifying service personnel allegedly responsible and repeated government claims that police were investigating.

The government's consistent intolerance of dissent and failure to ensure justice in even the most publicized and well documented cases underscores the urgent need for an independent international investigation and monitoring, regardless of any domestic process.

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[3] See, "A list of Commissions and Committees appointed by the GoSL (2006- 2013)," Centre for Policy Alternatives, Sri Lanka,
http://www.cpalanka.org/a-list-of-commissions-and-committees-appointed-by-gosl-2006-2013/

[4] Amnesty International, Sri Lanka: Twenty years of make-believe. Sri Lanka's Commissions of Inquiry, June 2009, http://amnesty.org/en/library/info/ASA37/005/2009/en

[5] BBC, Sri Lanka rally to protest against disappearances. http://www.bbc.co.uk/news/world-asia-5323892

[6] "Joint Civil Society Submission to Ms Navi Pillay", 1 September 2013,
http://www.eyesrilanka.com/2013/09/01/joint-civil-society-submission-to-ms-navi-pillay/, accessed 31 January 2014

Amnesty International urges the HRC to ensure:

- an independent international investigation into allegations of crimes under international law committed by Sri Lankan government forces and allied armed groups as well as by the LTTE. Where sufficient admissible evidence exists, the international community must ensure that those suspected of the crimes are prosecuted in genuine proceedings in full conformity with international standards for fair trial;

- ongoing international monitoring of the human rights situation in Sri Lanka, including of the effectiveness of any domestic judicial or other processes; and

- strengthened UN measures to prevent intimidation or reprisals by or tolerated by the Sri Lankan government against individuals who seek to cooperate or have cooperated with the UN, its representatives and mechanisms in the field of human rights.

Amnesty International reiterates its call to the Government of Sri Lanka to:

- Ensure that all allegations of crimes under international law are fully investigated and, where sufficient admissible evidence exists, those suspected of the crimes are prosecuted in genuine proceedings before independent and impartial courts that comply with international standards for fair trial;

- Ensure the protection of the rights to freedom of expression, freedom of peaceful assembly and freedom of association, and demonstrate unequivocally that harassment, intimidation and attacks against individuals or groups of individuals exercising those rights will not be tolerated, regardless of the opinions such individuals hold and express, and regardless of the position or political affiliation of the suspected perpetrator;

- Take all measures necessary to end attacks on minority businesses and places of worship and punish attackers in accordance with the law; and

- Cooperate fully with the UN special procedures including by responding positively to their outstanding requests to visit Sri Lanka and by providing them with full access.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Child Foundation, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Equal education and training opportunities for all Children

Providing access to equal educational and training opportunities for all citizens will prepare children for their individual and social life while paving the way for comprehensive and coordinated growth of their personality and providing necessary grounds for the realization of their human dignity. Therefore, not only the international treaties and conventions, but also the holy religion of Islam, and the Constitution of the Islamic Republic of Iran, have put special emphasis on the right of the child to education.

Paragraph 3 of Article 3 and Article 30 of the Islamic Republic of Iran's Constitution, have obligated the government to provide free education, training and physical education for all people up to the end of high school.
Article 28 of the Convention on the Rights of the Child says, "*States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need....*"
Article 52 of Iran's Fourth Economic Development Plan Act has also made compulsory "education up to the end of junior high school, in proportion to facilities provided and in a gradual manner" in order to encourage students to attend classes regularly and reduce dropout rate. On this basis, development of knowledge and skill and promotion of the productivity of human capital, especially that of girls, as well as qualitative and quantitative development of general education have been underlined.

Child Foundation, as a nongovernmental and pioneer organization in the area of educating talented but impoverished children in Iran, believes that financial resources and facilities are not all that it takes to realize the national education goals and programs. However, achieving these goals requires creation of a suitable education culture in cooperation with all people in the society, so that, all officials and managers would feel responsible for the provision of suitable and fair conditions for the attraction and support of children who need education. As a result, we believe that trans-sectoral thinking in this area and taking advantage of all the available facilities and capacities for the realization of educational goals for all people is what the present-day Iranian society needs to achieve the 20-year perspective that has been delineated in macro development documents of the Islamic Republic of Iran.
At present, "National Education for All Program," which is under way in Iran, has adopted the following strategies to achieve its goals:

1. Strong commitment at national and international levels to Education for All Program,
2. Promoting education-for-all policies with the main goal of eliminating poverty and facilitating development,
3. Committed intervention and participation by the civil society in the formulation, implementation, and supervision over education development strategies;
4. Introducing accountable, participatory, and responsible educational leadership and management,
5. Attention to promotion of mutual understanding and tolerance while avoiding violence and conflict in the formulation of educational programs,
6. Gender equality and change of gender-based attitudes, values and procedures,
7. Implementing education programs to fight AIDS,
8. Creation of safe and sound educational environments and equitable distribution of facilities.

While supporting these goals, **Child Foundation** draws special attention of all institutions active in educating children to the issues of "labor children" and "talented but impoverished children." We believe that not only in Iran, but at international level, special attention should be paid to education of children who, for any reason, have no access to education. Covering about 10,000 talented children with financial problems by **Child Foundation** and providing

educational and recreational facilities for them and their families is another golden page in honorable efforts that this organization has made to improve conditions and situation of Iranian children.
We believe that eradication of illiteracy among children, especially poor children, will cause them to appear more constructive in the future for the promotion and growth of the public culture, and will prove that under equal conditions, they would be able to develop their talent, personal judgment, as well as their understanding of ethical and social responsibility.

Child Foundation takes this opportunity to ask responsible organs of the United Nations, regional and country UN offices that are active in education, as well as nongovernmental institutions working for children in other countries to share their experiences in eliminating child illiteracy. By doing this, they will not only help to promote this effort in other countries, but also pave the way for a purposive effort aimed to improve statistics on the realization of the Millennium Development Goals in developing and less-developed countries.
We also take this opportunity to declare our readiness to take part in any kind of initiative between non-governmental organizations and regional and country offices of the United Nations, especially in the Middle East region, which will help to reduce poverty and deprivation among children while providing them with necessary educational facilities.

Question of the realization in all countries of economic, social and cultural rights

The Associazione Comunità Papa Giovanni XXIII and the co-signing NGOs take note of the Secretary General's Report A/HRC/25/31 on the question of the realization in all countries of economic, social and cultural rights, submitted at the 25th regular session of the Human Rights Council pursuant to Human Rights resolution 22/5. The report focuses on the right to a remedy for violations of economic, social and cultural rights as well as on access to justice.

The report contributes to strengthening the legal protection of economic, social and cultural rights by re-affirming the right to remedy for violations of human rights and the need to create remedial mechanisms at national level, as recommended already by several treaty bodies and Special Rapporteurs. It also points out that, conditions such as accessibility, affordability, information, access to adequate legal assistance, non- discrimination, timely and prompt decisions and transparency are paramount for remedial mechanisms to be effective.

In 1993, during the Vienna World Conference on Human Rights, the Committee on Economic, Social and Cultural Rights stated in its report that "States and the international community as a whole continue to tolerate all too often breaches of economic, social and cultural rights which, if they occurred in relation to civil and political rights, would provoke expressions of horror and outrage and would lead to concerted calls for immediate remedial action"[1]. This is still true today.

It is time to translate the political affirmation of the interdependence of human rights into reality, including through strengthened legal protection of economic, social and cultural rights. There is no hierarchy of rights and therefore there should be no difference in the speed of realisation between civil, political and economic, social and cultural rights.

Article 2, paragraph 1 of ICESCR requires States parties "to take steps individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant".

As rightly pointed out by the High Commissioner for Human Rights in her report to ECOSOC in 2006[2], for the CESCR the recognition of differing obligations for economic, social and cultural rights in comparison with other rights presupposes a necessary flexibility device for States reflecting the real world, but it should not be misinterpreted as depriving the obligation of any meaningful content.

States bear the primary responsibility to protect human rights and fundamental freedom within their boundaries and must make efforts according to their capacity to realise expeditiously economic, social and cultural rights of their people by including legislation, the provision of judicial remedies, constitutional recognition as well as other appropriate administrative, financial, educational and social measures.

Unfortunately, many developing countries are not yet in a position to provide for the full realisation of economic, social and cultural rights of their people; they often lack the financial resources and the technical capacities to effectively meet their obligations. Especially in view of expanding global interdependence, it is imperative to recognize that the respect of human rights is a shared responsibility between all members of the international community, States and non-states actors.

Therefore, we regret the fact that the Secretary General's report focuses only on the domestic level without mentioning at all international structural obstacles that are main root causes of violations of economic, social and cultural rights as well as the perpetuation of poverty and increase of inequities worldwide. Such obstacles are, inter alia, the current

[1] A/CONF.157/PC/62/Add.5, para. 5
[2] E/2006/86

international trading system, the profit-oriented market economy and unregulated finance, the asymmetries of power in global governance, environmental degradation and resource depletion, unequal access to information and technology, the problem of external debt for many countries, the issue of property and intellectual rights, lack of protection and remedies against the negative effects of globalisation, conflicts and arms trade, international crime and corruption, the prevailing of greediness on solidarity etc.

The Maastricht Principles issued on 28 September 2011 by 40 international law experts from all regions of the world, including current and former members of international human rights treaty bodies and regional human rights bodies as well as former and current Special Rapporteurs, affirm clearly that the human rights of persons, groups and peoples are affected by and dependent on the extraterritorial acts and omissions of States. The advent of economic globalization in particular, has meant that States and other global actors exert considerable influence on the realization of economic, social and cultural rights across the world, i.e., extraterritorial influence.

It is time to fulfil extraterritorial obligations[3] that are contained in the international human rights law, including the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, other universal and regional instruments and international declarations. It is also time to address the need of remedies at international level.

Without addressing the root causes of violation of economic, social and cultural rights and surmounting the structural international obstacles that contribute to the increase of inequities in the world, it is quite unrealistic to speak about remedies and access to justice only at national level, especially for the least developed countries.

Moreover, it will be difficult, if not impossible, for the millions of starving people whose right to food is violated to claim their right, or for the millions of illiterates in the world who are not able to know their rights, to ask for remedies. Millions of children and adults who don't have yet access to medicines will die before being able to claim a remedy.

As Pope Francis says in his Apostolic Exhortation "Evangelii Gaudium" it is time to say no to an economy of exclusion, no to the new idolatry of money, no to a financial system which rules rather than serves, no to the inequality which spawns violence, bearing in mind that "Inequality is the root of social ills".

The full realization of the rights to health, food, education, shelter, work, safe drinking water and sanitation, and other economic, social and cultural rights, will occur when the principle of equitable contribution and access to and sharing of the benefits of development lead the political choices of States and non-States actors. In this regard, setting the goals, targets and indicators for the Post-2015 Development Agenda will be a great opportunity that shouldn't be missed, to progress towards social justice and solidarity as well as a cut off mark to unveil political will.

We urgently need the creation of an enabling international and national environment as envisaged by the Declaration of the Right to Development (RTD) and further strengthened by recognition sought for other solidarity rights such as the Right to International Solidarity and the Right to Peace.

APG 23 and the co-signing NGOs participate actively to the Open Ended Intergovernmental Working Group (OEIWG) on the RTD by proposing criteria and sub-criteria for the implementation of right to development genuinely relevant for the life of people living in poverty and the most vulnerable.
Special attention is given to economic, social, cultural rights whose realisation is essential for the exercise also of political, civil rights.

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[3] Extraterritorial Obligations according to the Maastricht Principles are:
a) obligations relating to the acts and omissions of a State, within or beyond its ter- ritory, that have effects on the enjoyment of human rights outside of that State's territory; and
b) obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realize human rights universally.

In the OEIWG on Right to development, we NGOs advocate for the use of human rights language in revising the work of the High Level Task Force[4], and propose new criteria and sub-criteria that will be consistent with the creation of enabling national and international environment[5]conducive to the implementation of right to development.

For example, "free access to effective justice" is a new sub-criterion that we will suggest on the criterion 2(c) "to ensure non discrimination, access to information, participation and effective remedies" at the 15th session of the OEIWG on RTD that will take place in May.

In fact, people living in poverty, especially those living in rural areas, of developing countries face many obstacles in accessing effective justice including lack of money to reach the court and pay a lawyer, inability to explain and claim their rights because of illiteracy, lack of facilities for communication etc.

Building up a system that guarantees free access to national justice will contribute to raise awareness in the citizens and fight local corruption.

In conclusion, the co-signing NGOs support the necessity of remedies for the violation of economic, social and cultural rights as stated by the Secretary General report. On the other hand, being constantly present at grass-root level and working with people living in poverty, we would like to emphasize that such remedies should not be limited at a domestic level but established also at regional and international level.

Moreover, we urge all States that have not yet signed and ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights of 5 May 2013 to do so as it is a step forward in strengthening the promotion and protection of economic, social and cultural rights worldwide.

We also encourage States to use the Guiding Principles on Extreme Poverty and Human Rights[6] in the formulation and implementation of poverty reduction and eradication policies.

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[4] A/HRC/15/WG.2/TF/2/Add.2: The right to Development Criteria and Operational Sub-Criteria

[5] A/HRC/WG.2/14/CRP.5

[6] A/HRC/21/39

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the World Muslim Congress, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

A tale of two massacres: Chattisinghpora and Pathribal

The diabolical facts

On the evening of 20 March 2000, 15 or 17 unidentified gunmen, some in Indian army_uniform, entered the village of Chattisinghpora in Anantnag district in turmoiled Jammu and Kashmir and ordered the Sikh men to assemble.

The attackers wore uniforms of the Indian armed forces and were led by a tall man whom they addressed as Commanding Officer. All Sikh men were rounded up, ostensibly to check their identities, and made to sit on the ground in two groups against the walls of the gurdwaras [Sikh temples] a few hundred meters from each they were shot at point blank range. As the attackers withdrew, they reportedly shouted Hindu slogans. A small bottle of liquor was left behind by them.

The attackers had shot dead 34 Sikh men. Several men were injured by gun shots, of these one man died later from his injuries.

A unit of paramilitary Indian Army's Rashtriya Rifles stationed close to the village failed to intervene and only visited the place of the incident on the following morning. Despite all sides in the Kashmir conflict condemning the massacre, it was widely believed that the Indian forces were behind the outrage. It was committed on the eve of President Bill Clinton's visit to India, with the duel objective of defaming Kashmiri freedom fighters and creating a rift between Sikhs and Muslims in Kashmir.

President Clinton subsequently wrote that "Hindu militants" were responsible for the attack. It was a clear reference to Indian forces. Kashmiri armed resistance activists have consistently denied any involvement with the attack, saying that they have no enmity with the Sikhs. Sikhs themselves also accuse Indian forces, regular or irregular, of carrying out the gruesome massacre.

Five days after the events at Chattisinghpora, on 25 March 2000, Indian military forces killed five men in Pathribal village of Anantnag district, claiming that the victims were the "foreign militants" responsible for the Chattisinghpora massacre. Official reports claimed that forces had, after a gun fight, blown up the hut where the men were hiding, and had retrieved five bodies that had been charred beyond recognition. The bodies were buried separately without any postmortem examination.

Local people had reported many innocent Muslim Kashmiri men had been rounded up in the days before and they suspected it was those men who had in fact been killed in Pathribal simply to 'prove' India's claim that Kashmiri militants had killed the Sikhs at Chattisingpor a few days earlier. Massive public pressure (seven protestors were killed by forces in Anantnag in April 2000) forced the authorities to exhume the Pathribal dead in April 2000 and they were then identified by family members as being some of the local villagers who had 'disappeared' a few days before the Chattisingpora attack — they were innocent Kashmiri Muslims who had nothing to do with that outrage.

The Indian authorities took DNA samples of the Pathribal victims in order to check them against the DNA from their families. The special investigation team inquiring into the Pathribal incident approached the Centre for DNA Fingerprinting and Diagnostics, Hyderabad, and the Central Forensic Science Laboratory, Kolkata, with medical samples of the relatives to match with those of the slain men. That was in 2000. Two years later The Times of India reported that the samples from the relatives had been substituted with some others, a fact that both forensic centers had conveyed to the state police but India again denied any wrongdoing or cover up.

Due to huge public pressure India's leading federal investigation agency, Central Bureau of Investigation (CBI), investigated the incident and indicted several army officers, saying it was a "fake encounter and cold-blooded murders". Two years ago, the Supreme Court asked the army to decide whether accused officers should be tried by an army court or a civilian court. The army opposed a civilian trial for the officers and took over the investigation. In February 2014 the Indian army exonerated the officers involved by saying 'The evidence recorded could not establish a prime facie case against any of the accused persons" and that the case was now closed.

Is india to be held accountable?

Observers of the shocking sequence of these events, which bear all the hallmarks of other Indian atrocities in Punjab and Kashmir over recent decades, are left wondering how the international community should respond to this overt mockery of human rights jn areas of conflict Not only are grotesque acts of state terrorism laid bare but also impeding the administration of justice, impunity given by Indian authorities to the perpetrators is there for all to see.

The moral bankruptcy of those involved in these heinous crimes is clear but what of the legal accountability that the world must surely demand?

To combat impunity, international law, including treaties to which India is party, guarantees the right to an effective remedy for victims of gross human rights violations, including "disappearances" and extrajudicial executions. A victim's right to/ an effective remedy obligates the state to take the necessary investigative, judicial, and reparatory steps to redress the violation and address the victim's rights to knowledge, justice, and reparations. The state is under a continuing obligation to provide an effective remedy; there is no time limit on legal action and the right cannot be compromised even during a state of emergency. In theory, India's domestic law is not inconsistent with international law. The Indian Supreme Court has repeatedly stressed the respect given to the national implementation of international law, and the need to accommodate international law "even without express legislative sanction." Moreover, the Supreme Court has held that international law can be incorporated into the fundamental rights under the Indian Constitution. Thus, the standards of international human rights law, including the right to an effective remedy in cases of "disappearances" and extrajudicial executions, are part of the fundamental rights protected by the Indian Constitution.

It is clear that the Indian authorities, despite their obligations under both international law and their own domestic law, have singularly failed to administer justice in the case of the atrocities described here. There is no judicial will or political will to deliver justice and there is no hope of justice on the part of the victims unless the UN itself intervenes. The onus for action lies squarely with the international community and the UN's human rights bodies risk damage to their own reputations if they fail to address the situation with determination and speed. It is submitted that the Human Right Council should take up the investigation of these serious crimes and to recommend appropriate punishment of all those responsible. The Sikhs and the kashmiris will assist fully with that work even though Indian authorities will doubtless object to 'interference' in their internal affairs. Anyone who believes in human rights and justice will know that this case is anything but India's 'internal affair'.

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Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Access to justice for juvenile offenders

Juvenile Justice Theory

Juveniles require different treatment in the justice system. A General Comment on the Convention on Rights of the Child (CRC), the most widely ratified treaty, states that "[j]uveniles have diminished culpability because of their age; because juveniles differ from adults, the rehabilitative goal of punishment is best served through separate juvenile justice systems and penal codes."[1] Scientific studies show that juveniles are different from adults because they have an underdeveloped sense of responsibility; they lack maturity; they are more vulnerable to outside influences; they have not fully formed their character; and they have limited control over their own environment.[2]

Despite international law protecting juveniles, countries continue to violate juveniles' rights when they enter the justice system. The pattern of trying juveniles at a young age, treating them as adults in the justice system, and sentencing juveniles to extreme punishments that lack a rehabilitative purpose violates the human rights of individual juveniles. Human Rights Advocates urges the Council to urge enforcement of the international laws protecting juveniles.

Juvenile Death Penalty

Sentencing and carrying out the juvenile death penalty violates article 6 of the ICCPR and article 37(a) of the CRC. Iran[3] and Saudi Arabia[4] are the only countries that carry out juvenile death penalty sentences. HRA urges that they stop sentencing and carrying out juvenile death penalty sentences and amend their laws to prohibit juvenile executions.

Maldives is set to resume executions after a sixty-year moratorium.[5] There are two juveniles on death row, and their sentences must be communed to comply with international law.[6]

Discrepancies in determining an offender's age at the time of the offense could lead to juvenile executions. Yemen signed international treaties and passed legislation banning the juvenile death penalty, but continues to sentence and carry out death penalty sentences despite conflicting evidence that the offender was under 18 at the time of the crime.[7] This has also been an issue in Sudan.[8] Authorities in these countries must provide safeguards against executing juveniles.

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[1] Committee on Rights of the Child, General Comment No. 10: Children's Rights in Juvenile Justice, para. 10, UN Doc. CRC/C/GC/10 (April 25, 2007).

[2] The United States Supreme Court found these studies relevant. *Miller v. Alabama* (2012) 132 S.Ct. 2455, 2464-2465

[3] Amnesty International, Iran Executes Alleged Juvenile Offender (Jan., 18, 2013).

[4] Amnesty International, Five Reasons why Saudi Arabia Must Urgently Abolish the Death Penalty (2013).

[5] Amnesty International, Maldives: Halt "retrograde" move to resume executions (January 2014).

[6] Amnesty International, Maldives Must Commute Death Sentences for Two Juvenile Offenders Convicted of Murder (May 2013).

[7] Human Rights Watch, Look at us with a Merciful Eye: Juvenile Offenders Awaiting Execution in Yemen (March 2013).

[8] Death Penalty Worldwide, Sudan (2012).

The United States retains its reservation to the International Covenant on Civil and Political Rights (ICCPR) article 6(5), which bans the juvenile death penalty, despite a Supreme Court opinion banning the juvenile death penalty.[9] This reservation should be removed.

Long Juvenile Sentencing

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) state that the guiding factor in deciding a juvenile's case is their well-being.[10] Institutionalization is a last resort, and should only be for the minimum necessary period.[11] The CRC reflects this language in articles 37(a), which expressly forbids sentencing juveniles to life without parole (LWOP); 37(b), which states, "the arrest, detention or imprisonment of a child . . . shall be used only as a measure of last resort and for the shortest appropriate period of time;" and 40, which governs the administration of juvenile justice.

The juvenile life without parole (JLWOP) categorical ban is a *jus cogens* norm. Eight countries still have laws that allow JLWOP, but there are no known cases of the sentence being imposed.[12] Zambia, Sierra Leone, Fiji and Tonga have ambiguous laws, but there is no evidence of JLWOP sentences being imposed.[13] The only country in the world that currently imposes JLWOP is the United States. [14]

The United States limited JLWOP sentencing in *Miller v. Alabama*,[15] which held that the courts must consider the age and circumstances of the juvenile, and in *Graham v. Florida*, which held no JLWOP for non-homicide crimes.[16] Massachusetts has banned JLWOP sentences. [17] But until all states or the federal government ban JLWOP, the United States will continue to violate international law.

De facto JLWOP happens when a juvenile is sentenced to a period of time that is so long that is amounts to life without parole.[18] As countries move away from sentencing JLWOP, they should be monitored for de facto JLWOP sentences. Of 164 countries surveyed, 127 (78%) have determinate sentences for juveniles and 92 (56%) have determinate sentences that are 25 years or less for juveniles.[19] HRA commends countries that place caps on juvenile sentences to avoid de facto JLWOP, and we encourage countries to follow the trend of setting lower determinate sentences for juveniles.

Transfer of Juveniles to Adult Court

Juveniles must be treated differently than adults. The Committee on the CRC states "[t]he rehabilitative goal of punishment is best served through separate juvenile justice systems and penal codes."[20] ICCPR article 10(5) requires consideration of a juvenile's age, rehabilitation, and segregation from adults.

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[9] U.S. reservations, declarations, and understandings, International Covenant on Civil and Political Rights, 138 Cong. Rec. S4781-01 (daily ed., April 2, 1992).

[10] United Nations Standard Minimum Rules for the Administration of Juvenile Justice at 17.1(d).

[11] Id. at 19.1.

[12] Connie de la Vega & Michelle Leighton, Sentencing Our Children to Die in Prison: Global Law and Practice, 42 U.S.F.L. Rev. 983, 990 (2008)(Countries: Antigua and Barbuda, Argentina, Australia, Cuba, Dominica, Saint Vincent and the Grenadines, the Solomon Islands, and Sri Lanka).

[13] Ibid.

[14] Ibid.

[15] *Miller*, *supra* note 2.

[16] *Graham v. Florida* (2010) 560 U.S. 48.

[17] *Diatchenko v. District Attorney for Dist.* (2013) 466 Mass. 655.

[18] Connie de la Vega, Amanda Solter, Soo-Ryun Kwon & Dana Marie Isaac, Cruel and Unusual: U.S. Sentencing Practices in a Global Context, 60 (2012).

[19] Id. at p. 58.

[20] CRC General Comment No. 10; *supra* note 1 at para. 10.

The United States put a reservation on the ICCPR reserving the right, "*in exceptional circumstances*, to treat juveniles as adults."[21] There are an estimated 250,000 juveniles that are tried, sentenced or incarcerated as adults per year in the United States.[22] This indicates an institutionalized practice of transferring juveniles to adult court in the United States, not just exceptional circumstances cases. The United States needs to ensure and urge that its states severely restrict or eliminate entirely the transfer of juveniles to adult court.

While it is ideal to create a separate system entirely for juveniles, some countries have created separate penal codes that are applied to juveniles even when they are in adult court.[23] Croatia[24] and Japan[25] allow juveniles to be tried in adult court, but the juvenile code still applies. Georgia[26] and Iceland[27] do not have juvenile courts, but additional protections apply to juveniles. HRA commends these countries for their efforts to treat juveniles differently.

Minimum Age of Criminal Responsibility (MACR)

Article 40(3)(a) of the CRC states that countries must establish a MACR below which juveniles are presumed not to have the capacity to commit a crime. The Committee on the CRC set twelve years as the absolute minimum age, with the goal of increasing to fourteen or sixteen.[28] There are no exceptions for setting the MACR below twelve.[29]

Some countries continue to hold juveniles below the age of twelve criminally responsible.[30] Iran's penal code was updated in 2012; article 147 stipulates the MACR at nine years for girls and fifteen years for boys as required by Islamic *Shari'a*.[31] Not only does the MACR for girls violate Article 40 of the CRC, but it discriminates based on gender in violation of CRC Article 2. Iran must increase the MACR for girls to match that for boys to comply with its CRC obligations.

Human Rights Advocates recommends that the Council urge state parties:

1. To recognize the special legal status of juveniles;
2. To stop sentencing and carrying out the juvenile death penalty;
3. To stop the practice of extreme sentencing for juveniles, including JLWOP and *de facto* JLWOP;
4. To stop the practice of transferring juveniles to adult court to be tried, sentenced, and imprisoned without additional protections that account for their status as juveniles; and
5. To require a MACR of twelve or greater.

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[21] U.S. reservations, *supra* note 9, emphasis added.
[22] Campaign for Youth Justice, Key Facts: Youth in the Justice System, April 2012.
[23] Cruel and Unusual, *supra* note 18 at p. 56.
[24] Juvenile Courts Act, art. 60.
[25] Juvenile Act, Act No. 168 of 1948, art. 20.
[26] Code of Criminal Procedure, arts. 640, 641, 654; Criminal Code, art. 89.
[27] U.N. ESCPR, 30th Sess., 16th mtg., U.N. Doc. E/C. 12/2003/SR. 16, May 26, 2003.
[28] CRC General Comment No. 10, *supra* note 1, at para. 32 and 33.
[29] Id. at para. 34.
[30] Cruel and Unusual, *supra* note 18 at p. 51-52.
[31] Iran Human Rights Documentation Center, Gender Inequality and Discrimination: The Case of Iranian Women (2013).

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Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

The right to vote: Interference by voter registration laws

I. Introduction

Voting allows citizens to hold leaders accountable and promote good governance. The right to vote is a basic human right that empowers citizens to influence governmental decision-making and to safeguard their own human rights. Several international declarations and covenants provide for the right to vote; however, the importance of this right requires more monitoring and further definition of its contour. The Human Rights Council recently adopted Resolution 19/36 on "Human Rights, democracy, and the rule of law,"[1] which reaffirms the right of every citizen to vote and calls on states to make continuous efforts to strengthen the rule of law[2] and promote democracy by "[t]aking appropriate measures and steps to amend electoral laws in order to enable people to vote and participate in elections, without unreasonable restrictions."[3] This landmark Resolution by the Council is a positive step for strengthening protections of every citizen's right to vote. However, states continue to interfere with this right by enacting electoral legislation, particularly laws governing voter registration, that are neither reasonable nor proportional.

II. Interference by Law: Registration of Voters

Though the right to vote is enshrined in various international covenants and declarations, it is not absolute and can be subject to reasonable restrictions. Article 25 of the International Covenant on Civil and Political Rights (ICCPR) provides that citizens shall have the right to vote without "unreasonable restrictions," which include only those restrictions that are "reasonable" and "proportional." Human Rights Committee General Comment No. 25 to the ICCPR provides that any conditions that apply to the exercise of the right guaranteed by Article 25 should be based on "objective and reasonable criteria."[4] For example, setting a minimum age limit for voting purposes would be a reasonable restriction.[5] Alternatively, an unreasonable restriction is one based on grounds of physical disability or one that imposes literacy, educational, or property requirements.[6] Regarding the principle of "proportionality," the Human Rights Committee concluded that this principle requires that a measure as harsh as the derivation of all political rights must be specifically justified.[7]

Despite these requirements, there is wide derogation by states in protecting the right to vote as states often interfere with this right through electoral legislation, especially laws governing voter registration that are neither reasonable nor proportional. Voters can be directly disenfranchised through laws denying the right to certain demographic groups, such as convicted prisoners, or through procedural requirements, such as voter identification laws that disparately impact certain communities, in particular minorities. This is especially prevalent in voter registration laws that have voter identification requirements, prisoner disenfranchisement, and language barriers.

A. Voter Identification (ID) Requirements

International law provides some guidance on the role and process of voter registration; however, states are afforded wide discretion in the implementation of voter identification practices.[8] Discrepancies in voter ID laws across

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[1] Resolution 19/36, "Human Rights, democracy, and the rule of law," A/HRC/RES/19/36 (April 19, 2012), *available at* http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/36.

[2] Resolution 19/36, para. 2.

[3] Resolution 19/36, para. 16(h).

[4] Human Rights Committee, "General Comment No. 25," OHCHR (July 12, 1996), para. 4, *available at http://www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb.*

[5] Id., para. 10.

[6] Id.

[7] Human Rights Committee, "Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the ICCPR," Communication No. 44/1979, CCPR/C/12/D/44/1979 (April 9, 1981), para. 16.

[8] "Voter Identification Requirements and Public International Law: An Examination of Africa and Latin America," The Carter Center (January 14, 2013), 1, *available at*

countries vary depending on numerous factors, including politics, government capacity, environment, culture, history of conflict, and levels of poverty. Because voter ID laws significantly impact the ability to register to vote and cast a ballot, laws governing proof of identity can be helpful to facilitate and increase confidence in the voting process. However, voter ID laws too often cause substantial disenfranchisement of certain communities.[9]

The United States (U.S.) presents an example of violations of the international obligation ensuring every citizen the right to vote. Voter ID laws in the U.S. have a disproportionate and unfair impact on approximately 21 million Americans, a significant number of whom are low-income, racial and ethnic minorities, and elderly.[10] Many of these Americans cannot obtain necessary forms of identification required by states because they cannot afford to pay for the required documents or have limited physical mobility to obtain an ID due to old age.[11] In Africa, voter ID laws vary amongst different countries. While most require individuals to provide proof of identity to register and vote, some countries allow for either one of many types of identity documents or third party attestation, where an applicant may rely on witness testimony or affirmation of a traditional leader as proof of identity.[12] In Latin America, all countries require a national ID card for voting. The single ID system works well in those countries whose governments commit substantial resources to ensuring citizens have documentation or other outreach measures. However, many citizens in South and Central American lack documentation entirely, including birth certificates, the majority of whom are indigenous, poor, rural, youth, and are displaced due to armed conflict. Millions of undocumented citizens in Latin America cannot even start the process of registering to vote.[13]

B. Prisoner Disenfranchisement

Legislation prohibiting prisoners from voting and thus disenfranchising individuals convicted of crimes is a prevalent form of direct interference by law in guaranteeing the right to vote. The Human Rights Committee has stated that "[i]f conviction for an offense is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence."[14] The U.S., Belgium, Finland, Germany, and Iceland have disenfranchisement laws that vary depending on specific factors, such as the felon's state of residence or the type of crime committed.[15]

The U.S. has some of the most restrictive electoral policies at the subnational level. Each state in the U.S. has its own criminal disenfranchisement laws which vary widely from state to state. For example, while two states permit incarcerated felons to vote, 13 states prohibit only current inmates from voting, and 30 states prohibit prisoners released on probation from voting.[16] However, 11 states permanently disenfranchise former prisoners on parole, probation, and post-sentence.[17] Four other countries, Armenia, Belgium, Chile, and Finland, also place restrictions on felons subsequent to their release.[18] In comparison, 21 countries represent positive examples in eliminating blanket

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https://www.cartercenter.org/resources/pdfs/peace/democracy/des/voter-identification-requirements.pdf (hereafter Carter Center Report).

[9] Id., 10.

[10] "Oppose Voter ID Legislation," American Civil Liberties Union, *available at* https://www.aclu.org/files/assets/aclu_factsheet_on_voter_id_legislation_7_2011.pdf (accessed on January 29, 2014).

[11] Id.

[12] Including Angola, Benin, Chad, Democratic Republic of Congo, Ethiopia, the Gambia, Ghana, Guinea, Lesotho, Liberia, Malawi, Mozambique, Namibia, Niger, and Sudan. Carter Center Report, 15.

[13] Id., 23.

[14] General Comment No. 25, para. 14.

[15] "International Comparison of Felon Voting Laws," Felon Voting, *available at* http://felonvoting.procon.org/view.resource.php?resourceID=289 (accessed on February 4, 2014) (hereafter International Felon Voting Laws).

[16] Id.

[17] Jean Chung, *Felony Disenfranchisement: A Primer*, The Sentencing Project, (June 2013), 1, *available at* http://www.sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Primer.pdf.

[18] International Felon Voting Laws.

disenfranchisement of prisoners.[19] For example, the Supreme Court in Canada and the Constitutional Court of South Africa both found that blanket disenfranchisement of prisoners violates democratic principles and both countries now allow convicted persons to vote even while in prison, with some limits that are proportional.[20]

C. Language Barriers

Language barriers can affect voter participation because language minorities are less able to navigate the voter registration process. In the U.S., federal law targets language minorities suffering from a history of political exclusion and mandates states to provide election-related materials in English and in minority languages.[21] Though some U.S. states have failed to uphold such obligations at the subnational level, the U.S. at the federal level made positive steps by issuing guidelines for individual states on effectively implementing federal law regarding language minority groups.[22]

The experience in the country of Georgia illustrates another positive example. Following the introduction of specific initiatives to produce voting resources in national minority languages, studies show that members of minority communities have increased understanding of the electoral process.[23]

III. Recommendations

The right to vote is a fundamental human right, crucial to protecting and promoting access to other human rights. Violations of this right have a particularly adverse impact on human rights defenders. Human Rights Advocates (HRA) urges the Human Rights Council to create a separate mandate regarding the right to vote, including a Special Rapporteur to monitor whether state parties' electoral legislation is reasonable and proportional, and to address effective mechanisms for challenging voter disenfranchisement.

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[19] Id.

[20] *Sauvé v. Canada* (Chief Electoral Officer), 2002 SCC 68; *Minister of Home Affairs v. National Institute for Crime Prevention & the Re-Integration of Offenders (NICRO)*, 2004 (5) BCLR 445 (CC) (S. Afr.).

[21] This includes Spanish, Asian, Native American, and Alaskan Native. 28 CFR Part 55.6, Voting Rights Act of 1965, amended in 1975.

[22] "Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups," 28 CFR Part 55, Department of Justice, Federal Register Vol. 76, No. 169 (August 11, 2011), *available at* http://www.justice.gov/crt/about/vot/sec_203/28cfr55_2011.pdf.

[23] Georgia Extraordinary Presidential Election OSCE/ODIHR Election Observation Mission Report, 15, OSCE, (February 28, 2004) *available at* http://www.osce.org/odihr/elections/georgia/24600.

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1411090

Please recycle

The need for stronger mandates and concerted action on electronic waste

Introduction

The Human Rights Council has acknowledged that there is a nexus between environmental degradation and the inability to achieve the full enjoyment of human rights. First, the Council appointed a Special Rapporteur to monitor and respond to complaints of potential human rights abuses stemming from toxic waste.[1] Second, the Council appointed an Independent Expert to study the obligation of States relating to human rights and the environment.[2] Taken together, though, these mandates leave a gap in coverage. While the Special Rapporteur may monitor how toxic waste *directly* threatens human rights, the Independent Expert may only study the interrelation between member State obligations and their practices. These mandates barely deal with the long-term effects stemming from unsustainable development practices that harm the environment and, in turn, erode the full enjoyment of human rights. Thus, when considering the United Nations declaration to support and ensure sustainable development and the pervasiveness of degrading environmental policies that jeopardize the enjoyment of human rights, the Independent Expert's mandate must be strengthened.

As an initial step, Human Rights Advocates (HRA) advocates that the Independent Expert should be upgraded to the position of Special Rapporteur. An immediate consequence of this action would be to give complimentary jurisdiction to the newly vested Special Rapporteur and the existing Special Rapporteur on hazardous waste over issues such as electronic waste ("e-waste"). This should not be meant as an opening salvo to undercut the mandate of the Special Rapporteur on hazardous waste. Rather, mandate of the Special Rapporteur on hazardous waste should, at the next renewal cycle, should be reaffirmed to ensure that toxic waste does not threaten the enjoyment of human rights. By focusing on the potential dangers associated with the narrower issue of e-waste, HRA seeks to demonstrate that an equal set of tools is necessary to deal with *all* issues relating to the full enjoyment of human rights and global environmental practices. And, in doing so, HRA believes that there is a need to focus on both direct threats to human rights (which would fall under the mandate of the existing Special Rapporteur on hazardous waste) and indirect, long-term threats to the enjoyment of human rights stemming from unsustainable development practices that harm the environment (which should fall under the mandate on human rights and the environment).

The success of the Minamata Convention on Mercury points to the potential for a fledging relationship between both mandate-holders. Through efforts made jointly by the Independent Expert on human rights and the environment and the Special Rapporteur on hazardous waste, the world's first global treaty to control mercury was signed.[3] Concerted action on the part of both mandate holders would strengthen the efforts against the acceleration of e-waste and its resulting harmful effects on human rights—direct, indirect and long-term.

The Threat Electronic Waste Poses to Human Rights

E-waste poses a set of unique risks to the enjoyment of human rights, making it necessary to strengthen current monitoring tools to ensure accountability for potential human rights abuses. First, e-waste poses significant health risks to vulnerable segments of populations, namely women and children. And, the full range of health effects from e-waste processing has yet to be entirely unearthed. Second, unlike some other harmful environmental practices, hazardous e-waste processing is expected to increase exponentially. Third, the power disparity between countries receiving e-waste and the entities that export ensures inadequate compensation for the full-range of risks associated with processing. In

[1] Resolution 18/11, adopted by the Human Rights Council, U.N. Doc. A/HRC/RES/18/11 (October 13, 2011). 18/11 was a continuation of the mandate of the Special Rapporteur, which has been in existence since 1995.

[2] Resolution 19/10, adopted by the Human Rights Council, U.N. Doc. A/HRC/RES/19/10 (April 19, 2012).

[3] Minamata Convention on Mercury: UN Experts Call for a Global Response to a Global Scourge, Oct. 11, 2013, at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13850&LangID=E.

all, these circumstances lead to practices that have direct, indirect and long-term effects on human rights, including but not limited to, the right to health, food and water.

E-waste dumping cites in Agbobloshie, Ghana have been identified as posing the highest toxic threat to human life.[4] Agbobloshie imports 40,000 tons of e-waste from developed countries annually.[5] Due to inadequate waste processing mechanisms and wanting to strip goods for metals, many citizens flock to the city's scrapyard to burn the waste.[6] This practice has resulted in the population being overexposed to polychlorinated biphenyls, a chemical now banned in the United States, contaminating breast milk at unexpectedly high amounts, effecting mothers and their new born children.[7]

Compounding the complexity of environmental and social problems arising from e-waste processing is its exponential increase. This past November, a study reported that 200 hundred million people around the world are at risk to exposure of toxic waste.[8] The study covered 49 countries, and over 3,000 sites.[9] Globally, the volume of e-waste is expected to grow by 33% in the next four years.[10] Some experts have speculated that the global volume of e-waste will soon equal the weight of eight of the great Egyptian pyramids.[11]

Corporations have largely taken advantage of developing countries through e-waste exports. Developing countries "offer cheap labor and relaxed environmental regulations, allowing for the opportunity of exploitation by developed countries."[12] As a result, corporations and governments from developed countries are allowed to serve their markets by exporting waste to factories based in developing countries "that operate under the most limited public regulation of labor, production, pollution, and health and safety standards."[13] In effect, while developed countries are able to achieve a *better* standard of living, countries receiving e-waste are left with a lower standard of living.[14] Hence, the tradeoff is unequal, leaving developing countries without adequate compensation to deal with the environmental and social effects that result from the bargain.

Existing Mechanisms Dealing with Electronic Waste

Though aware of its dangers and exponential growth, the Special Rapporteur on hazardous waste has not been able to give enough attention to e-waste. HRA suggests that strengthening the Independent Expert's mandate is necessary and would allow for joint jurisdiction over the issue, promote concerted action, and thereby result in the proper oversight of the e-waste industry.

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[4] *Id.*

[5] Chris Stein, Inside Ghana's Electronic Wasteland, Al Jazeera English, Nov. 2, 2013, at http://www.aljazeera.com/indepth/features/2013/10/inside-ghana-electronic-wasteland-2013103012852580288.html.

[6] *Id.*

[7] Kwadwo Ansong Asante, et al., Human Exposure to PCBs, PBDEs and HBCDs in Ghana: Temporal Variation, Sources of Exposure and Estimation of Daily Intake by Infants, 37 Environment International 921 (2011).

[8] Siva Parmeswaran, Toxic Waste 'Major Global Threat,' BBC, Nov. 19, 2013, at http://www.bbc.co.uk/news/science-environment-24994209.

[9] *Id.*

[10] John Vidal, Toxic 'E-waste' Dumped in Poor Nations, Says United Nations, The Guardian, Dec. 14, 2013, at http://www.theguardian.com/global-development/2013/dec/14/toxic-ewaste-illegal-dumping-developing-countries.

[11] *Id.*

[12] Stephanie Tso, Upgrading Our Electronics and Downgrading Their Environment: How E-waste Recycling Has Made China Our Backyard Dumping Ground, 41 Wash. U. J. L. & Pol'y 205, 208 (2013).

[13] *Id.* at 209.

[14] *Id.*

The Special Rapporteur last addressed the issue of e-waste in 2010, considering its effects in India.[15] The Special Rapporteur noted in their report of fearing that the average rate of e-waste in India alone would more than double from 330,000 tons per year to over 800,000 tons.[16] Of special concern to the Special Rapporteur were extremely dangerous techniques used in the informal e-waste sector at small-scale workshops, which are likely to grow as the rate of e-waste increases.[17] Additional oversight is needed to ensure stopping practices like "breaking of hazardous components, open-air incineration and acid leaching to extract gold and copper."[18]

Most of the Special Rapporteur's efforts regarding hazardous waste have been devoted to issues other than e-waste.[19] In light of the Special Rapporteur's recognition that "rapid changes in technology" [20] will result in greater generation of e-waste, and reports that suggest toxic waste arising from e-waste processing will generate a public health crisis on par with malaria and tuberculosis, greater efforts must be made to ensure that e-waste does not result in violations of human rights,[21] including those related to the degradation of the environment.

Recommendations

HRA urges the Council to consider, in the next renewal cycle, strengthening the mandate of the Independent Expert on human rights and the environment. Additionally, and in consideration of the success born from concerted action, the Council should promote cooperation between both mandate holders. In doing so, the Council will begin to ensure exercising proper oversight of e-waste, limiting direct, indirect, and long-term effects of unsustainable practices on the full enjoyment of human rights.

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[15] Report of the Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights, U.N. Doc. A/HRC/15/22/Add.3 (September 2, 2010).

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] Since their appointment, the Special Rapporteur has devoted most of their time addressing hazardous waste issues arising from mining, shipbreaking, dumping of hazardous substances by vessels, radioactive waste, obsolete and banned pesticides, and mercury.

[20] Report of the Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights, U.N. Doc. A/HRC/15/22/Add.3 (September 2, 2010).

[21] Siva Parmeswaran, Toxic Waste 'Major Global Threat,' BBC, Nov. 19, 2013, at http://www.bbc.co.uk/news/science-environment-24994209.

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Negative effects of sanctions against Iran, an obstacle in the way of achieving the MDG

The health situation of women and children in Iran:

In the past decade the Islamic Republic of Iran has made worthy improvements regarding the health and welfare of children and mothers. Iran has reached many of its mid decade health objectives (World Heads of States Conference for the Health of Children in 2000). In spite of the worthy successes that have been reached nationally, there are still general differences in the health indicators of provinces and different regions, unfortunately the unjust sanctions against Iran have prevented the country provinces to reach international indicators.

But we must consider that developing countries must run projects to response to their fundamental needs, promote health issues and making things safe, such as clean drinking water etc to be able to preserve the achievements gained at the end of development programs.

Projects that aim at achieving lasting improvements in women and children's conditions must consider the connection between the cause and effect of different factors, for example: if the safety of children is worked on without considering the need to improve the economic conditions of the household, the reduction of mortality rates of children will result in further financial problems which itself affects children's nourishment and increases the mortality rate or catching various diseases. Therefore it is better to consider issues in relations with each other and not in isolation.

Presently the fundamental debate is globalization and globalized thinking. How can we expect the international community to achieve global justice, global health and prevent poverty while people are facing injustices and cruelties that are results of sanctions imposed by countries against Iran. Because a country develops when there are no sanctions imposed on it and is able to have economic relations with other countries and import and export what it needs.

The World Health Organization has set itself 6 main duties:

1 – Guiding fundamental matters for health and participation in matters which require a joint activity.

2 –Planning research and encouragement to production and translation and publication of knowledge.

3 – Setting standards for promotion

4 – Reiteration of moral options and policies based on observations.

5 – Technical support, speeding of changes and organizational sustainable capacity building.

6 – Health situation and the assessment of its needs.

Alongside the duties that the World Health Organization is committed to, it also has commitments towards its member states that include targeted guidance of the World Health Organization in Iran (2010-2014):

1 – Improvement of justice and influential social factors on health

2 – Strengthening healthcare systems.

3 – Achieving all inclusive services and improvement of justice in the provision of care costs.

4 – Increase capacity for the Leader and government.

5 – Strengthening health safety.

6 – Management of population changes and epidemiology.

7 – Strengthening participation in development.

Now, in view of the commitments and guidance of the World Health Organization particularly its seventh commitment (strengthening participation in development) considering the unjust and foolish sanctions imposed on Iran for more than two decades, the question NGOs will ask is this: How can the Islamic Republic of Iran achieve its adopted policies?

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Please recycle

Women, Development and Preventive Factors

Achieving gender and development objectives is in no way an easy task, and requires awareness of the role of human community, both men and women, in the social, political and economic life arenas.

Unfortunately development has never been a justice oriented movement, because in many aspects women have been left behind, particularly in the Third World or developing countries. Even thought the United Nations had named the 1960-70, the Decade of Development, but from the beginning of the 1980s deplorable statistics were released in the Third World countries regarding the situation of women. The following statistics were released by the Canadian Council for International Cooperation in 1991:

- 67% of the working hours of the world belongs to women.

- 10% of the world income is made by women.

- Two thirds of the illiterates of the world are women.

- 1% of the properties of the world belongs to women

Women make up a third of the official workforce of the world. But for the work that they do they get the lowest wages which is around three quarters of what men get.

Women are more vulnerable towards unemployment than men. Women produce half of the food products of the world, but are rarely landowners. The illiteracy rate of women against men remains three to two, and the education gap between boys and girls remains wide according to statistics.

The lack of accurate information on women's conditions has resulted in the fact that the number of women workers in various sectors and women members of workers unions not to be clear. The figures for 2013 in developing and Third World countries have not changed noticeably. This indicates that in the third millennium women are still being oppressed.

We know very well that the role of women in development is directly dependent on the social-economic development objectives of the country they live in, and thus it is deemed as a fundamental factor in the development of societies. Development means a change in all aspects which covers all aspects of society (political, economic, social and cultural). Development causes growth in the economy, social investments, material and resources and even the culture of a society and changes social behaviour in order to express a society's increasing demands and achieve its humanistic objectives.

Planning and implementing development has numerous and complex stages and must be reliant on systems, tools and information so that it is possible to make the necessary decisions. Of course these systems and tools are defined from the social views of powerful groups who are able to affect development and allocation of resources and facilities.

Over the last few decades efforts have been made for women to exercise their rights and actively participate in political, economic, social and cultural issues. And each country with consideration of cultural and institutionalised customs and traditions can enter the social participations arena.

In an age where women's studies philosophers believe that the 20th Century is a battlefield of the power of thoughts and awakening of synergy conscience we need to try together to reach perfection. It is amazing that some societies on various pretexts and the distortion of mankind's schools and religious, historic and cultural demands, have made a mistake and have neglected the creative powers of half of their societies.

One instance is the statistics that indicate the failure to use the huge women's force in managerial levels. And because of this the situation of women's management in Iran and the world was analytically and statistically compared and studied. This important challenge shows the cultural backwardness due to the generalization and spread of unfair differences between men and women in the work arena leads to negative consequences and causes mental and professional capacities and managerial potentials of women not to be utilized in the best way. Thus developing countries end up with further loss. Some women have outstanding managerial capabilities, but, we know very well that women's entrance to higher organizational levels bring along many problems with them. Even though the number of women in the workforce is on the increase, their promotion to managerial levels has not been felt. In conducted researches, for the understanding of men's superiority in management there is no set distinctions to indicate management is exclusive for men. Researches show that tomorrow's management needs further use of the potential power in management. Alongside changes, management difficulties and complex issues for women managers remain.

In the sixties we witnessed the entry and presence of women in management and social spheres in western societies. At the start of this entry the main slogan of ideological movements was equality with men but this slogan too did not bring about satisfactory results for women.

Efforts to establish equality between men and women resulted in the masculine model to be accepted as the model of success, and the acceptance of this model for the evaluation of women resulted in women to be deemed in social circles as individuals with inherent faults, and on the other hand the assumption of being a man resulted in women to place under attack their main life's asset, being a complete woman in other words.

The conclusive result of the aforementioned experience is that fundamental changes are necessary in ideological concepts and the form of the move to exultance.

The question that arises is whether with preservation of all female characteristics it is still possible to be a manager and take the leadership of a group of people that include both men and women?

In follow up to the aforementioned question different materials have been published and the obstacles have been expressed which are listed below:

1 - Prejudgment: conventional interpretation from women is that a woman is an individual that has the ability to be silent, optimist, easily pleased, the result of this presumption is lack of opportunities for women in management.

3 - Lack of homogeneity with the mothering role: Perhaps one of the main problems in the way of women's social management activities that has been debated is their lack of homogeneity with the mothering role.

3 - Inability to have coercive approach: because instinctively women search for a shelter when faced with dangerous issues and evade facing danger, therefore women cannot be good managers.

4 – Characteristic view: this means that particular behaviours that are conducted by women are not coordinated with top management of an organization, therefore they cannot advance.

5 – Socialisation process: this process drives women to professional jobs and not management.

Recommendations and solutions:

1 – Learning political skills and competition skills and the use of scientific consultants in the organization by women.

2 – Nurturing personal skills alongside the development of mental and scientific capacities and creation of trust to their role and job.

3 – Development of the education system for the growth of talents and promotion and strengthening of women's mental independence and their effectiveness as decision makers and responsible people.

4 – Avoid the presence of women in political, cultural and social arenas from becoming a formality.

5 – Selection and appointment of managers and entrepreneurs on the bases of their abilities and not their gender.

Overall the views that prevent women from getting managerial posts, indicates that although the number of women in the workforce has increased over the years, but this advancement in no way is an increase in top organizational and management levels.

The assessment tools for the equality of people in the world is not balanced and despite the burden of responsibility that women have, they never achieve what they deserve. Perhaps women are inheritors of a kind of historic injustice and as a result they are held back from their instincts and creative power which they have in social and cultural development. Fortunately, in Iran there are over 100 women's NGOs, and they have reached positive situations in the path of women's advancements and development, and have reached legislative and executive stages in many areas.

We hope that this new trend in Iran gradually grows and speeds up with a self made and self regulating method and guarantee its continued advances and stability.

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Human rights situations that require the Council's attention

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Please recycle

Necessity for further attention of international mechanisms towards rights of Shia Minorities

Attention towards the rights of minorities as a component of human rights, has always been one of the principles of the activities of international organizations and institutions. In the Universal Declaration of Human Rights, the right to religion and belief is a fundamental right, and freedom of religion is the right to be equal to the majority of a population. The right to have a healthy environment, the right to educate based on the minority beliefs are the rights that must be considered for all minorities.

This is while Shia minorities in many countries are not only deprived of their rights, but also they are faced with numerous problems and abuses.

The existence of minorities with different cultural and civilization tendencies, prepares the basis for cultural and social diversity of any country, and are deemed as an inalienable part of societies.

In this regard human rights teachings strongly stress on the observation of the economic, social, cultural and political rights of these people. All this is while minorities, especially religious minorities in different countries are subjected to abuse and violation of their human rights in various forms. For example:

Various discriminations over time in Saudi Arabia is indicative of the fact that the Shia minority have continuously been under pressure and cannot enjoy their fundamental rights alongside ordinary citizens, and gain access to political, economic and social positions. The Shia minorities in Saudi Arabia are extremely deprived of their rights, that is they suffer from discrimination in both the law of the land and in practice. They are practically barred from publicly holding their religious customs and rituals, even as a small minority they cannot in any way demand political participation in the country, and enjoy their basic rights as normal citizens.

In Bahrain, the Shia are demographically in minority, but politically they are deemed a minority and any form of peaceful objection towards the existing discrimination is met by government crackdown. Politically the Shia are marginalized, socially they are deprived of their rights and continually treated as second class citizens. The Bahrain government prevents the Shia minority from any political activities and the fulfillment of their roles, and over the years whenever the Shia have tried to remove the existing discrimination through peaceful and legitimate moves, they are strongly cracked down.

In Pakistan, at least 320 Shia have been killed through targeted attacks in 2013 and this trends continues unabated. The Shia minority is targeted by acts of violence and by terror groups, and there are no mechanisms to protect them.

In Malaysia the authorities officially violate the basic and fundamental rights of the Shia minorities. They are prevented from freely holding their religious rituals and customs, in such an extent that 200 members of the Shia community were arrested while holding their religious rituals and unfairly tried and sentenced.

The aforementioned instances alongside many other cases show the increasing violence committed against the Shia minorities around the world, which requires the special attention of international institutions and mechanisms.

Although international mechanisms for the implementation of principles of minorities rights to-date have seen a lot of changes and improvements, but the connection between minority related issues are the instances that if attention is paid to them, a better future can be guaranteed for protection of minorities rights at the international level. Welcoming the activities and reports of the Special Rapporetur on Minorities, this NGO is concerned with the extent and interconnection of minorities issues and calls for other Human Rights Council mandate holders such as the Special Rapporteur on freedom of expression, peaceful assemblies, freedom of religion and belief, to seriously pursue the rights of Shia minorities around the world.

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Please recycle

Cruel sanctions in violation of economic, social, civil and political rights

The first experience of sanctions from the western countries, Britain's case to be precise, took place during the premiership of Dr. Mosadegh in the 1950s, which was in response to the nationalization of the oil industry.

In the first months following the revolution which resulted in the two countries severing their relations, the United States sanctions against the people of Iran began. These sanctions resulted in the assets of the Iranian people worth 12 billion dollars to be blockaded. The assets included gold, bank deposits and other properties.

During the Iran-Iraq war also another part of the assts of Iran in the United States were frozen. America refused to deliver equipments that had been bought by Iran. Also the giving of grants and facilities to Iran and the supply of equipments and spare parts were banned.

Over the last four years, comprehensive sanctions were imposed by countries and companies against Iran in all trade and investment aspects. These included the prohibition of investments in excess of 40 billion dollars in the oil and gas industry and sanctions against Iranian shipping and airlines, sanctions against the Melli Bank, Sepah Bank and the Iranian Central Bank, and all currency and financial activities. The sanction imposed by SWIFT resulted in the cutting of approximately 90 percent of the Iranian people's foreign trade.

Unfortunately cruel sanctions imposed against the people of Iran both by America and the EU still continue to be imposed which contradicts the spirit of human rights documents, particularly the Declaration on the Right to Development.

This institute believes:

Sanctions affect ordinary people and thus cause the unhappiness and deep mistrust of peace loving and moderate people of Iran towards those that have imposed the sanctions.

The sanctions have made the Iranian people to distance themselves from the market economy. Also resulted in the Iranian economy from being nationalized and the private sector's been marginalized.

Sanctions have taken trade out of official banking and driven towards underground networks.

Sanctions have resulted in further wearing out of the industries and non competitiveness of the economic environment and reduction of economic and industrial growth. In Iran

Sanctions have resulted in a reduction in oil production, currency fluctuations and the instability of currency policies and as a result a drop in the share of the Iranian society in global trade.

Sanctions resulted in a drop in foreign investments and economic participation rates and negative economic growth in the Iranian society.

Sanctions resulted in a drop in people's buying powers in spite of an increase in oil and currency revenues.

Sanctions resulted in an increase in inflation from 22% in 2013 to over 44% in 2014 and a 5.9 increase to the growth of currency in proportion to economic growth.

With a rise in property values, rented properties increased from 22.9 percent in 2006 to 26.6 percent in 2011 and these figures are on a rise which have roots in sanctions.

With the imposition of cruel sanctions, migration, unemployment, marginalization, getting addicted to drugs, age of marriage and divorce rates have increased to 16.3 percent until 201.

Sanctions have reduced the mental health factors and the development of safety infrastructures, and security of the families.

Due to the sanctions on spare parts of cars, and the wear and tear of transport shipments, the death toll on Iran's highways has increased.

For example among the fatalities from transportation are several examples of passengers burning to death in Peugeot cars, Scania buses, trucks and trailers due to mechanical faults in the engines or braking systems.

Also the terrible death of more than 25 schoolchildren on the Izeh Berjen road, the terrible death of nearly 50 people in the flame on board a Scania bus in May 2013 are the results of sanctions imposed on spare part. of buses and cars.

Due to the airline industry sanctions and the failure of those that impose the sanctions to deliver new airplanes instead of aging ones many people have lost their lives in Iran in air accidents:

The crash of a Boeing 727 resulted in the death of 78 passengers. One Topolov TU 154 also crashed in February 2009 resulting in the death of 42 innocent human beings.

In the summer of 2009 another Topolov TU '54 crashed killing 168 people.

These are the most important air incidents in the last four years which have roots in the sanctions on the air industry of Iran.

Sanctions only target the weak and middle classes in Iran.

All of these are in conflict with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

These sanctions are not much less than a full blown military conflict.

Although with the advancement of development in things like renewable and new energies, job creation and tourism, digital government, legislative cooperation, the establishment of a control system of reaching products instead of focusing on the process, working of unity and conformity and omitting parallel political and economic structures, the sanctions can be fought with but:

This organization expects all NGOs around the world to join each other and help to remove inhuman sanctions that negatively affect countries nations, and moderate the levels of international community's demands in countries under sanctions, so that all countries can work side by side freely and in peace to assist the advancement of the MDG and to recognized each others rights economically, socially, politically and peaceful technologies with sustainable development.

United Nations A/HRC/25/NGO/14

General Assembly

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Human Rights Council
Twenty-fifth session
Agenda item 6
Universal periodic review

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11605
1411605

Please recycle

A review of the Universal Periodic Review mechanism

The UPR is an important procedure by which a country is given the opportunity to study so that with all potential and expertise learning to present its measures taken for the improvement of human rights within its society and on the opposite all other players (countries and civil society institutions) are given the opportunity to criticize and or encourage the country under review and inform others about their recommendations for the improvement of human rights in the country.

In the past, countries with strong influence and power were not under scrutiny and were not questioned in questioned in the Council or other intergovernmental institutions, but now they must provide answers to questions and criticisms regarding the human rights conditions of their own countries. The fact that the said process has an intergovernmental nature, in some cases plays a positive role in encouraging countries to challenge other countries human rights records. Also it gives NGOs a new opportunity to start a dialogue with countries, something that did not exist in the past. Nevertheless, the weak points of this mechanism is greatly undermines its objectives and principles, and as a nongovernmental organization we would like to highlight these weaknesses in this statement:

Selective approach toward countries:

Based on studies conducted to date, the selective method used by many countries in selecting issues with regards to countries under review, and how these issues are dealt with, the falseness of any collective commitment to the main principle of the UPR meaning "universal coverage and equal treatment of all countries" is proven.

Also the selective approach of countries during decision making regarding the time of participation in interactive dialogue, results in the creation of legitimate doubts with regards to the "universality and non-selectivity" of the process. In other words, when human rights is considered, the countries of a region have no particular interest in what is happening in another country.

Another negative point that is observed in this regard, particularly in the initial review sessions, is the lack of any form of criticism and recommendations regarding some countries by friendly and neighboring countries. This method in the UPR on Tunisia session reached a dangerous situation where the list of friendly countries speakers was so long that it seemed it was an organized effort to obstruct the process. A country's human rights situation will not be truly reflected in the working group reports, when the country under review is admired by neighboring countries and naturally reduce the possible realization of the first objective of the UPR," improvement of the real human rights conditions:"

The number and characteristics of the recommendations:

Because of comprehensive coverage of all aspects of human rights, the UPR mechanism is faced with an increasing number of recommendations in each session. The number of recommendations in the UPR sessions is gravely increasing. This can affect the quality of reveiwing the human rights situation in countries, and put quantity ahead of quality.

The lack of coordination between states results in the repetition of some questions and recommendations. This process and the repetition of a recommendation by several states, reduces some opportunities for an all sided review of the human rights situation of the target country.

Rejection of recommendations:

Although the UPR is a mandatory process for governments that are committed to it, but at the same time considers some level of freedom for the government under review. This is the weak as well as the strong point of this process. The assumption is that a recommendation can be rejected which is potentially contrary to international human rights

principles. The weak point is that a number of recommendations which are strong and specific and can make fundament.! changes in human rights mandate of the countries are rejected due to freedom in decision making of the state under review, in other words some recommendations are rejected by some countries without any given reason.

The lack of suitable mechanism for the assessment of the implementation of recommendations:

Although recommendations are the most important accomplishments and conclusions of the UPR, and must be implemented by the state under review, but to-date no suitable mechanisms have been considered regarding assessment of the implementation of the recommendations.

Finally, a number of countries where the human rights situations are very bad, do not have much political will to participate in the UPR and thus they weaken the capability of the UPR for accomplishing the considered objectives.

For example Israel's initial refusal to participate in the second round of the UPR was a hefty blow to the universality and non-selectivity and accountability of the other states to this mechanism. Although following long tug of war process and by imposing preconditions Israel finally accepted to participate in the session, but Israel's disregard of the UPR cannot be easily overlooked.

The Organization for Defending Victims of Violence belie es that the Council must set a mechanism in which the penalty for these sorts of actions be such that countries get deterred to do similar things.

Ultimately we believe that now there is a good opportunity for dealing with the removal of the weak points of the UPR mechanism and for this purpose the views and recommendations of NGOs must be considered alongside with those of the States.

The Organization for Defending Victims of Violence hopes that the lessons learned from the first round of the UPR, alongside the will of states for further distancing from politicized processes in the field of human rights, the second cycle of this process turns into a tool for the real improvement of human rights all over the world.

United Nations A/HRC/25/NGO/15

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Human Rights Council
Twenty-fifth session
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Circumvent of regulations to clear issue of human rights violations in occupied territories*

During past years, some of Unite Nation's human rights bodies such as the Human Rights Council have made considerable attempts on pressuring Israel to decline widespread and numerous violations in occupied territories .Adopting resolution 19/17(The International Fact-Finding Mission /FFM) at the 19th session of U.N. Human Rights Council is a clear sample of the above mentioned positive attempts. But Israel continued settlements and other violations pointed out in FFM report. Furthermore, reacting to the FFM, Israel tried to circumvent the U.N. Human Rights bodies by temporary cutting ties with HRC until early 2013 and putting conditions to re-engage with the body.
Then we a NGO express our concern about Israel's policies toward UN human rights bodies and the occupied territories. On 22 March 2012, at its 19th session, the Human Rights Council (HRC) adopted **resolution 19/17** entitled "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan" by which the HRC decided to *"dispatch an independent international fact-finding mission, to be appointed by the President of the Human Rights Council, to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem*. This is called The International Fact-Finding Mission (FFM) . Immediately Israel announced that they cut all ties with the Geneva-based U.N. Human Rights Council, after they said it would probe how Israeli settlements may be infringing on the rights of Palestinians. Despite all dodges and Obstructions by Israel, the report produced and issued in Jan 2013.The report concluded that:

- *All Israel's settlements in the Occupied Palestinian Territory, including East Jerusalem, are illegal under international law. The Fourth Geneva Convention prohibits an Occupying Power from transferring its civilian population into an occupied territory. The report calls on Israel to dismantle all its settlements, the construction of which could be considered a war crime falling under the jurisdiction of the International Criminal Court (ICC). If it signs the Rome Statutes, the Palestinian Authority, granted the status of a state by the UN General Assembly vote last November, could bring Israel before the ICC on such charges.*

On 29 Jan 2013, Israel became the first country to boycott a council review of its human rights record. But in June Israel announced it would like to re-engage with the body, which has 47 state members. Israeli officials reasoned that Israel has long accused the Human Rights Council of singling it out, noting that it is the only state to have a specific agenda item dedicated to it at every meeting of the council, and that the body has passed an inordinate number of resolutions against it . Israel also has demanded permanent membership on the 47-member council in the said section . In this regard they have claimed that Israel will join to UN rights body by getting membership of the Western European and Others Group (WEOG) in the UN Human Rights Council .This is a clear circumvent of regulations and laws. Because Israel is geographically located in Asia and Muslim states have blocked Israel from joining the Asian group on the 47-member council. Then Israel trying to imposed itself in a trans-regional organization to effect on U.N decisions against Israel violations as a inter-group member .Also Israel seeks to evade international obligations towards the Palestinian issues. However Human Rights Watch issued a statement about Israel re-engagement to UN Human Rights bodies and warned that: "Israel should know that it's international Commitments about human rights include Palestine too. "

Since Israel founding in 1948, the United Nations Security Council, as of January 2013, has adopted about 100 resolutions directly critical of Israel for violations of U.N. Security Council resolutions, the U.N. Charter, the Geneva Conventions, international terrorism, or other violations of international laws. Just between 1967 to1989 the UN Security Council passed 131 resolutions directly addressing the Arab–Israeli conflict. In early Security Council practice, resolutions did not direct'y invoke Chapter VII. They made an explicit determination of a threat, breach of the peace, or act of aggression, and ordered an action in accordance with Article 39 or 40. Resolution 54 determined that a threat to peace existed within the meaning of Article 39 of the Charter, reiterated the need for a truce, and ordered a cease-fire pursuant to Article 40 of the Charter. Although the phrase "Acting under Chapter VII" was never mentioned as the basis for the action taken, the chapter's authority was being used.
Also the United Nations General Assembly has adopted a number of resolutions saying that the strategic relationship with the United States encourages Israel to pursue aggressive and expansionist policies and practices. In this regard the

US Vetoed over 45 resolutions against Israel since 1972 to 2013. The 9th Emergency Session of the General Assembly was convened at the request of the Security Council when the United States blocked efforts to adopt sanctions against Israel. The United States responded to the frequent criticism from UN organs by adopting the Negroponte doctrine.
Therefore, we believe that despite all UN Positive and growing efforts in favor of the Palestinians -as creating several bodies like UNSCOP, UNRWA, UNDPR, UNISPAL & etc. - to decline Israel violations in occupied territories, the favorable results was not obtained yet and we need to change some tactics against Israel .We also believe that all of Israel's games against UN human rights bodies as mentioned are definable in 2 major goals: 1- evading to respond to a large number of violations in Palestine occupied territories, and 2- obtaining permanent membership in UN Human Rights bodies through any trans-regional organization.

Recommendations:

- Unconditional presence of representatives of the United Nation to the occupied territories of Palestine (include 1948 &1967 borders) for investigating any recognized violations on Palestinians by Israel.
- Creating a temporary committee for investigating to the one- sided actions of Israel in occupied territories as settlements and convincing Security Council to issue resolutions to halt settlements.
- Not accepting of Israel to cooperate with HRC as permanent membership through any trans-regional organizations.
- Applying legal sanctions against Israel alongside of boycotts with enforcement.
- Founding a Campaign or department named " Lawyers for legal sanctions against Israel".
- Establishing a Campaign named "international will to end Israel obstructions ".
- Declaring a day as the "International day of Israel commitments towards Palestine".

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* The Institute for Scientific and Political Research without consultative status, also shares the views expressed in this statement.

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Human Rights Council
Twenty-fifth session
Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11820
1411820

Please recycle

Necessity to respect cultural diversity of Muslim minorities in the fight against the growth of xenophobia*

Cultural diversity is the unavoidable result of the expansion and mixing of societies and the different human cultural connections in economic, social and cultural foundations. Part of this cultural diversity is based on the differences of individuals from the ethnic, religious and sectarian aspects which shapes the formation of ethnic, religious and sectarian minorities within societies. And if the respect to this diversity is not promoted, encouraged and taught, it can be the basis of the subjecting of discrimination and unjust pressures and the promotion of xenophobia within societies. We believe that the recognition and respect to cultural diversity of the Muslim minorities can play a constructive role in the elimination of the xenophobia phenomenon in host societies. Without a doubt, xenophobia is an obstacle in the way of all sided development and the balance of societies, and is always a threat against peace and security and human rights.

The universal nature of human rights, clearly is based on international law and the Charter of the United Nations and without any distinctions. UNESCO's approach to via its cultural conventions is based on these same principles. In fact the main stress is on acknowledgement, understanding and tolerance towards other cultures on the basis of binding universal morality which is based on universal values and multi sided respect of all cultural boundaries. Today the universality of human rights and the principle of banning discrimination and equality in the enjoyment of human rights, makes the foundation stone of respecting the cultural diversity of Muslims and on the basis of confronting xenophobia. The universality of human rights is stressed in the Universal Declaration of Human Rights. And includes "all human beings" in these rights without "any discrimination" including religion and sect. and explains that "All human beings are born free and equal in dignity and rights.?" Therefore the right to be different in religion and sect has been recognised for mankind. Also in article 2 of the Tehran Declaration (1968)and article one of the Vienna Declaration (1993) stress on the universality of human rights and article 5 of the Vienna Declaration clearly deems the consideration of cultural and religious diversity by the international community as a necessity and states: "it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms." Also in articles 8, 9, 14 and 24 of the Beijing Declaration (1995), Declaration on the Rights of the Child and the Convention on the Rights of the Child (1989), the American Declaration of Human Rights (1948) and the American Convention on Human Rights (1969), European Convention on Human Rights (articles 1 and 2, 1950) the UNESCO Founding Document (article 3 and 5) and the Declaration on Principles Governing International Cultural Cooperation (1966) reaffirm and recognise this.

In fact it is like so that the UNESCO Universal Cultural Diversity Declaration (2001) stresses on respecting cultural diversity, tolerance, dialogue and cooperation in an environment of mutual trust and respect as one of the most important elements that guarantees international peace and security and in article 1 it declares cultural diversity as the common heritage of mankind which must be recognised for the benefit of the present and future generations and confirmed. Also article 3 states that cultural diversity is one of the infrastructures of development and article 4 deems the defense of cultural diversity as a moral duty which is inalienable from respect to human dignity, and deems it the indicator of commitment to human rights and fundamental freedoms. Also as 1995 UNESCO General Assembly has stated in its Tolerance Declaration, tolerance must be shown towards all human communities' thoughts and religions and also tolerance based on non-discrimination. Also the UNESCO Convention on the Protection and Promotion of Cultural Diversity (2005) deems cultural diversity as a rich investment for individuals and societies and deems its preservation, promotion and protection as a fundamental precondition for the realisation of sustainable development.
As well as these in paragraphs 1 and 2 of Article 55 of the Charter of the United Nations commits all member states to observe human rights sand fundamental freedoms for all, without any form of discrimination, including religion. On this basis, existing minorities in the regions of member states, under the shadow of nondiscrimination and equality, protected by international law. And article 27 of the International Covenant on Civil and Political Rights also states religious minorities have a right to observe their own particular culture and religious observations. Furthermore article 1(1) of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states: "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective," And article 2(3) states: "Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation." And 2(4) stress on their right to form and run associations specific to religious minorities. And article 4(2)states: "States shall take

measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards."

Islam is one of the three big Abrahamic religions and after Christianity it has the largest following in the world. Today millions of Muslims live in different continents and countries of the world. What we witness today being committed against Muslim minorities is based on Islamophobia as well as xenophibia. In many countries there are rumours that Muslim are different and threatening and some experts and journalists too deem Muslim youths as violence seeking groups and at times support Islamophobic publications and promote xenophobia towards Muslims, and they are deemed as violence seeking and dangerous. In some countries the Hijab is banned and Muslims are discriminatorily labeled as "blacks" or "Asians"; and in most societies Muslims continue to wish for a representative in legislative bodies.[1] We believe what is taking place today regarding Muslim minorities is not mostly from the nature of Islam and or the practices of Muslims, but it's based on the political and economic prejudice dominant in societies that see the survival and continuation of their political and economic interests in the spread of xenophobia against Muslim minorities. In facto today contrary to what exists in international law and the international human rights system, a lot of the skeptical behaviours and thoughts and xenophobic are promoted against the Muslim minorities. All these have roots in Islamophobia and are pertinent to discrimination intolerance towards Muslims, and their spreading is in contradiction to the fundamental values of mankind.
We believe that the adoption of preventive, promotional and even strict measures by member states of the international community towards what is construed of the Muslim minorities, can fundamentally be effective in the fight against the growth of xenophobia and therefore we give the following recommendaiions:

1 –Religious discrimination must be deemed unlawful just as racial discriminationis, and racial equality, religious and cultural nondiscrimination must also be covered.
2 – Services centres and employers must provide necessary facilities for Muslims to be able to conduct their religious duties at work place, and also become aware of instances that might hurt the feelings of Muslims and also do their best in employing Musliims.
3 – Attention must be made in schools towards the religious and cultural needs of students, and exchange programmes with Islamic countries at higher education and university levels must be designed and implemented.
4 – Muslims must be utilized in key positions such as the government, police and the judiciary, and the police and courts must be sensitive towards religious motivations and investigate.
5 – Schools staff, services centres and employers must be fully aware of the importance of the Islamic clothing of Muslim girl and women students, and be trained in this regard, and facilitate further research and study basis on all aspects of Islam for researchers, and to give equal support for Muslim schools.
6 – Provide all medias necessary guidelines and education on how to prepare and publish reports and news regarding religious minorities and Muslims.

7 – Policy makers and authorities must introduce Islamophobia as a form of xenophobia and must provide and spread information on its unlawfulness and conflict with human rights and the inherent dignity of mankind.

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* The House of Eternal Culture without consultative status, also shares the views expressed in this statement.

[1] See: Jocelyne CESARI: Muslim minorities in Europe; The Silent Revolution, In: Modernizing Islam: Religion in the public sphere in the Middle East and in Europe, Rugers University Pre s, 2003, pp153-251

United Nations A/HRC/25/NGO/17

General Assembly

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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Foundation ECPAT International (End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance w..h Economic and Social Council resolution 1996/31.

[13 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

ECPAT International written statement on access to justice for CSEC victims

The Commercial Sexual Exploitation of Children (CSEC) is a growing problem, and although the true magnitude of the problem is hidden due to its sensitive and illegal nature, millions of children around the world are believed to be affected[1]. Manifestations of CSEC include child trafficking for sexual purposes, sexual exploitation in travel and tourism, child prostitution, and child pornography/child sexual abuse materials, a significant percentage of which now involve the Internet.

Access to justice for CSEC victims means ensuring that they have the right to an effective remedy for the harms caused to them by their abuse. For CSEC victims it is important that they are involved in the process of identifying and prosecuting the perpetrator; that they are compensated for the harms caused to them; and that they receive the psychosocial services necessary for their recovery. For victims of online child sex abuse identifying and prosecuting all of the perpetrators involved, including the producers, the viewers, and the distributors of the child abuse materials, is challenging and requires justice systems to adapt to the fast changing pace of technology.

The right to access to justice for CSEC victims is enshrined in international law, including the *1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*[2](the Basic Principles); the *Draft Basic Principles on the right to an effective remedy for trafficked persons* (the Draft Principles)[3]; and the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC)*.

In line with the current international legal framework outlined above, ECPAT International defines the right to access to justice for CSEC victims as the right to an effective remedy, consisting of three components:

1. The right to effective access to criminal justice (criminal law);
2. The right to recovery and reintegration (administrative law); and
3. The right to reparation (civil and criminal law).

1. The right to effective access to criminal justice

In a criminal law context, there is a need for child-friendly procedures for collecting evidence from CSEC victims; these procedures should be in place from the time they report the crime, to the time their evidence is given in court. In certain cases, the child may need access to effective witness protection, and where medical evidence is necessary it needs to be taken in a timely and sensitive manner. It is also important that child victims are not penalised by the justice system, which can happen if they are intentionally or unintentionally criminalised for their involvement in prostitution.

Article 8.1(a) of the OPSC requires State Parties to recognise and respond to the vulnerability of child victims. Resolution 2005/20 of the Economic and Social Council of the United Nations, entitled *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime* (the ECOSOC Guidelines)[4] states that there is a need for child-sensitive procedures, including interview rooms designed for children, interdisciplinary services designed for child victims, and modified court environments[5].

[1] UNICEF, Child protection from violence, exploitation and abuse
[2] UN General Assembly, Sixtieth session, Resolution 16 December 2005
[3] DUN General Assembly 66th Session, note by the Secretary-General (A/66/283)
[4] Resolution 2005/20 of the Economic and Social Council
[5] http://www.un.org/en/ecosoc/docs/2005/resolution%202005-20.pdf, Paragraph 30(d)

Criminalisation of trafficking victims is prohibited by the *Trafficking Principles and Guidelines 2002* (Guideline 5), the *2005 European Trafficking Protocol* (Article 26), and the *2011 European Trafficking Directive* (Article 8). The *UNODC Anti-human Trafficking Manual for Criminal Justice Practitioners* (the UNODC Manual) emphasises the need to ensure that all children under the age of 18 are legally regarded as such[6].

States should ensure that all CSEC victims under the age of 18 have the right to access child-friendly criminal justice systems.

2. The right to recovery and reintegration

All CSEC victims require extensive recovery services. This can include physical health services where the child has been physically abused and possibly exposed to HIV and other STDs; psychosocial support to address the trauma caused by the abuse[7]; and often assistance with reintegration where children have been removed from their families or communities. It is imperative that all CSEC victims receive these services as a legal right and this should not be dependent on whether a perpetrator has been identified; the immigration status of the child; or the child's willingness to cooperate with criminal legal proceedings. For victims of online child sexual abuse, the recovery process can be hindered by the perpetual presence of the child abuse materials online.

Article 9.3 of the OPSC requires State Parties to take all feasible measures to ensure appropriate assistance to CSEC victims, including their full social reintegration and their full physical and psychological recovery. The *1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* provides for the right to medical, psychological and social assistance[8].

Recovery and reintegration services for CSEC victims are a legal right. This means that when the duty bearers responsible for carrying out child protection assessments fail to meet the required legal standards, there is a need for an effective legal remedy for the child.

3. The right to reparation for CSEC victims

For child survivors of sexual exploitation, receiving adequate compensation is not only important to address the injuries and losses suffered, but also to fund the services needed for children to rebuild their lives and ensure they can successfully re-integrate into society.

Financial reparation by the State or by the offender is a fundamental right of CSEC victims. Article 9, Paragraph 4 of the OPSC requires State Parties to ensure that all CSEC victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible for their abuse. The UNODC Manual sets out the international legal basis for victim compensation, which includes: Article 25(2) of *the United Nations Convention against Transnational Organized Crime* (the UNTOC Convention) which requires State Parties to establish appropriate procedures to provide access to compensation and restitution for victims, and requires that this right be communicated to victims; Article 14 of the UNTOC Convention which requires State Parties to give priority consideration to returning confiscated proceeds of a crime or property to a requesting State Party so that it can give compensation to victims; and Article 6(6) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol) which requires State Parties to ensure their domestic legal systems contain measures that offer victims of trafficking the

[6] http://www.unodc.org/documents/human-trafficking/TIP_module9_Ebook.pdf, p.4.
[7] ECPAT, Psychosocial Rehabilitation of Children Who Have Been Commercially Sexually Exploited, 1999.
[8] At Paragraph 14.

possibility of obtaining compensation for damages suffered[9]. The *Draft Principles on the right to an effective remedy for trafficking victims* also specifically refer to the right to compensation[10].

States should ensure that CSEC victims are able to access their right to reparation through facilitating compensation claims against perpetrators. Compensation may go directly to the victim or into a general fund for CSEC victims and different systems may be appropriate in different contexts.

Recommendations

- All States should harmonise their national laws to comply with Article 8 of the OPSC.
- All States should implement the *Draft Basic Principles on the right to an effective remedy for trafficked persons*.
- All States should prioritise the implementation of the *ECOSOC Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*.
- All States should ensure that their national laws and policy are updated to ensure access to justice for victims of online child sexual abuse
- All States should ensure that child victims of prostitution are not penalised.
- All States should promote a multi-disciplinary approach to address the needs of CSEC victims.
- All CSEC victims should be provided with free legal advice and representation. The child should be able to choose his/her representative according to his/her evolving capacity.
- States should address gaps in legislation, policies and services to protect children who are vulnerable or victimised as a result of migration.
- All legal professionals including judges, magistrates, court officials and lawyers should receive mandatory training on children's rights, including training on how to approach CSEC cases.

[9] http://www.unodc.org/documents/human-trafficking/TIP_module13_Ebook.pdf, p.6.
[10] Paragraph 9.

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Human Rights Council
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Society Studies Centre (MADA ssc), a non-governmental organization in special consultative status

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[13 February 2014]

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Please recycle

Call to enable Sudan benefit from the merits of the Highly Indebted Poor Countries (HIPC) Initiative

During the 20th century, the developing countries witnessed a lot of political, economic and financial changes, being the main cause of the underdevelopment of these countries and their fall into a whirl of foreign pressures. In the midst of the search of these countries for solutions to their situation, the problem of foreign debts arose in front of them. The capitalist countries and the commercial banks were competing in providing poor countries with funds needed to overcome their diverse problems, considering that the development process requires large capitals and advanced technology.

The global debt crisis emerged in 1982 when some countries stopped paying their external debt service and other countries demanded rescheduling of their debts. The severity of the crisis aggravated by the impact of the economic recession and stagnation on the economies of the industrial capitalist countries which found themselves unable to recover the loan amounts lent to the underdeveloped countries.

Since its independence in 1956, Sudan as one of the developing countries, kept to struggle for development but was not able to settle the structural imbalance in its national economy and the excessive reliance on exporting raw materials. Furthermore, the civil war which erupted with the first heralds of independence had resulted in political turmoil and steadily worsened the economic conditions of the country.

The different national governments of Sudan, at the post-independence era, have systematically endeavored to attract loans and aids from external sources. During the seventies of the 20th century, foreign aid flowed in at large amounts but, the country was not able to utilize those amounts according to the set loan conditions due to the weak capacities of the government and the persistent structural deficiency of the national economy. By time, the amounts of debt service together with penalty clause accumulated until they reached to about $38 billion in 2010 equivalent to 94% of the GDP. Debt rate for exports reached 292% compared to 150% in developing countries.

Recipes for addressing foreign debt crisis in the eighties of the 20th century involve many unjust measures for the developing countries as creditors and donors often commit these countries to implement economic policies that rest upon a package of procedures which have negative effects on the society such as devaluation of national currency – resulting in accelerated inflation rates, the number one enemy of the poor, or reduction of public spending, lifting subsidy on basic goods and privatization. The resulting deterioration in the real value of savings forced many individuals to deposit their money abroad (one of the most important causes of the phenomenon of capital flight abroad) for fear of devaluation. All these policies have negative effects which prevent citizens from enjoying their basic rights.

In general terms, the negative impact of foreign debt on the financial and importing capacity of the developing countries had reflected on the investment operations needed for realizing the objectives of accelerated growth, an objective desired by the economies of these countries. This negative impact is demonstrated by the fact that the external debt burden will entail reduction in financial resources that could be directed towards savings and economic expansion. The high rate of debt service also forms a burden on the hard currency volume required for financing investment imports.

The negative impact of external loans service is not limited to the economic aspects only as they also affect the social aspects. The increase in inflation rates and the devaluation of the national currency urge the local capital to migrate abroad and resulting thereby in increased unemployment rates and lay-offs which will in turn cause serious social problems represented in aggravating unemployment in its different kinds, exacerbate poverty, increased imbalances in income distribution and expand the gap between the different classes of the society. By implementing the IMF Fixation and Structural Adjustment Programs (SAPs) a country abandons an important part of it social responsibility. Implementation of Structural Adjustment Programs also slows down the economic growth rates as a result of applying the economic deflation policies prescribed under these programs especially in its early stages. In turn, this will result in reduced domestic demand and increased stagnation which is reflected in reduced labor demand. Furthermore, privatization of public enterprises entails labor reductions that affect the overall employment rate and minimizes creation of new job opportunities due to curbed public spending under the pretext of reducing general budget deficits.

This shall be taken in addition to many other harmful measures accompanying economic reform programs. These measures are considered as a precondition imposed by donors for requesting debt rescheduling or applying for receiving new loans.

Sudan, like many other developing countries, has been suffering from loan service for a long time. Loan service has directly affected the social and economic situation of the country because of the serious problems it ensues including its effects on political and socio-economic development. This is reflected in the failure to provide adequate resources to meet the economic, social and political rights since it exacerbates unemployment even among certificate holders of all fields and deteriorates the purchasing power of the people due to wage freeze and price rising and compels governments to remove subsidies on basic goods in addition to depriving the government, under the SAPs, from its economic role as a main investor due to privatization of public enterprises which were providing considerable amounts to the public treasury.

Although all indicators locates Sudan at the top of the heavily indebted countries and despite that South Sudan has a share in these debts before cessation but Sudan hasn't yet enjoyed the merits of the HIPC Initiative, a situation that lays further pressure on the limited resources of the country resulting from its endeavors to pay loan services. Sudanese people were thus deprived from enjoying their economic and social rights and the budgets allocated for education, health and poverty alleviation programs were seriously affected.

Based on the above, the (ssc mada) calls upon your esteemed Council to include Sudan into the HIPC Initiative and consider relief of its debts in order to save financial resources that guarantee the right to development and increase spending on education and health providing that this shall be accompanied with a detailed program for good governance and efficient utilization of resources through active participation of all concerned parties including civil society organizations, private sector and local communities in order to allow for full enjoyment of all human rights, particularly the economic, social and cultural rights through setting national budgets that respond to the vital needs for enhancing realization of those rights.

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Human Rights Council
Twenty-fifth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Human Rights Law Centre, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Australia violating the rights of asylum seekers

The Human Rights Law Centre is deeply concerned about Australia's unlawful and increasingly punitive treatment of asylum seekers arriving by boat.

In addition to mistreating those who arrive, Australia is now actively preventing others from coming.

The Australian Navy is intercepting boats on the high seas and towing them back towards Indonesia, which is not a signatory to the Refugee Convention.

Australia has also gifted patrol boats to the Sri Lankan Government to help it stop asylum seekers from leaving, despite widespread reports of ongoing human rights abuses in that country.

Australia has published advertisements in refugee producing countries, warning would-be refugees of the harsh treatment they'll receive should they come and seek Australia's protection.

The Australian Government has also officially ceased granting protection visas to maritime arrivals and announced that no person coming by boat will ever receive permanent protection in Australia.

All maritime arrivals continue to be subject to mandatory detention on Nauru or Manus Island, Papua New Guinea, in conditions the UNHCR has assessed as falling short of international human rights standards. The camps currently hold over 2000 asylum seekers, but very few protection claims have actually been processed and arrangements are not yet in place for the resettlement of those found to be refugees.

By seeking to prevent asylum seekers from arriving and outsourcing its obligations in respect of those that do, Australia is setting an alarming global precedent that must be condemned.

We call on the Human Rights Council and member States to remind Australia that refugee protection is a global challenge. Australia needs to share, not shift, responsibility for that challenge and must comply with the letter and spirit of its international obligations in doing so.